IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

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RICHARD COOEY, ET AL.,	:	
plaintiffs,	:	HIGHLY CONFIDENTIAL
vs.	:	Case No. 2:04-CV-1156
TED STRICKLAND, ET AL.,	:	
defendants.	:	

- - -

Deposition of CARMELITA BAUTISTA, M.D., a witness, called by the plaintiffs under the applicable Ohio Rules of Civil Procedure, taken before Diana L. Hodge, a notary public in and for the State of Ohio, pursuant to notice and stipulations of counsel hereinafter set forth, at the Southern Ohio Correctional Facility, Lucasville, Ohio, commencing on Thursday, October 1, 2009, at 4:12 p.m.

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October 1, 2009

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On behalf of the plaintiffs.

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THURSDAY AFTERNOON SESSION
October 1, 2009
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STIPULATIONS

It is stipulated by and among counsel for the respective parties that the deposition of Carmelita Bautista, M.D., a witness, called by the plaintiffs under the applicable Ohio Rules of Civil Procedure, may be taken at this time in stenotype by the notary; that said deposition may thereafter be transcribed by the notary out of the presence of the witness; that proof of the official character and qualification of the notary is waived; that the examination, reading and signature of the witness to the transcript of her deposition are expressly waived by counsel and the witness; said deposition to have the same force and effect as though signed by the witness.

- - -

CARMELITA BAUTISTA, M.D.
being by me first duly sworn, as hereinafter certified, deposes and says as follows:
EXAMINATION
By Mr. Bohnert:
Q. Good afternoon.
A. Good afternoon.
Q. How are you today?
A. I'm fine. Thank you.
Q. I'm Tim Sweeney. I'm one of the three lawyers here today representing the various plaintiffs in this litigation concerning lethal injection. You understand you're here today to give a deposition?
A. Yes.
Q. Okay. Could you, for the record, please state your full name?
A. I'm Doctor Carmelita Bautista.
Q. Okay. And where do you reside?
A. I live in -- do you need my full address?
Q. No, just --
A. 5321 Benbrook Road, Charleston, West Virginia 25313.
Q. Okay. And how long have you resided there?

A. For the past 25 years.
Q. Okay. And have you ever been deposed, given a deposition before?
A. I think once.
Q. Okay. Just to recap, I'm going to ask some questions today. You understand you're under oath, correct?
A. Yes.
Q. Please answer my questions to the best of your ability. Okay?
A. Okay.
Q. If you don't understand a question, will you please tell me?
A. (Witness nodded head.)
Q. Okay?
A. Okay.
Q. You need to use words when you respond, because the court reporter has got to get it down.
A. Okay.
Q. So a nod of the head, "uh-huh" and that kind of thing, you have to avoid that if you could. Okay?
A. Okay.
Q. All right. If you need to take a break at any time, just let us know and we can do that.

A. Okay.
Q. Are you represented today by Mr. Wille?
A. Yes.
Q. Okay. And have you done anything to prepare for your deposition today?
A. No. I just talked to him the other day.
Q. Okay. Was it just the two of you?
A. Just the two of us.
Q. Nobody else in the room?
A. Nobody in the room.
Q. Okay. Have you talked with anybody else about your deposition?
A. No.
Q. Have you reviewed any documents to prepare for your deposition?
A. No.
Q. You are a doctor; is that correct?
A. I am.
Q. A medical doctor?
A. A medical doctor.
Q. And where is your degree? Where did you get your medical degree?
A. Oh, I get it from the University of the East, Ramon Magsaysay Memorial Medical Center in the Philippines.

Q. Okay. Are you from the Philippines?
A. I am.
Q. That's where you were born?
A. Yes.
Q. All right. And how old are you?
A. I'm 65.
Q. Okay. Are you currently a United States citizen?
A. Yes.
Q. And how long have you been a U.S. citizen?
A. It's been a while. I don't remember. Oh, my gosh. I forgot. That was when I was in -- that was when I was in Hawaii.
Q. Okay. Were you a doctor yet when you were in Hawaii? Had you already become a physician?
A. Yes.
Q. All right. So you became a U.S. citizen sometime after you got your medical degree; is that correct?
A. Yes.
Q. When did you get your medical degree?
A. In the Philippines?
Q. Yes.
A. '69.
Q. 1969. Okay. So you became a U.S. citizen

sometime after 1969?
A. Yes.
Q. All right. And what is your practice today?
A. Family practice.
Q. What does that mean, just for the record?
A. That I am seeing patients who has general problems; problems with hypertension, diabetes, aches and pains.
Q. Okay. And how long has that been your practice, family practice?
A. Okay. I have been in practice since 19 -- I have been in practice since -- for the past 25 years.
Q. And have you been practicing with a particular group, or how has that worked in the past 25 years?
A. No. I am basically employed by the hospital.
Q. And which hospital is that?
A. Thomas Memorial Hospital in South Charleston, West Virginia.
Q. And as we sit here today, are you an employee of that hospital?
A. No. I beg your pardon? Say that again,

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please.
Q. As of today, and this is October 1st, 2009, are you employed by that hospital currently?
A. I am still employed by that hospital.
Q. Okay. And is it -- when you say "employed," does that mean you receive a salary? I'm just trying to understand your relationship to the hospital.
A. Yes, I receive a salary.
Q. So you're a salaried employee of St. Thomas (sic) Hospital?
A. That's right.
Q. Okay. Are you on their staff, so to speak?
A. I am with a medical staff, yes.
Q. All right. And what do you do at St. Thomas Hospital?
A. I check patients when their own private physicians are not around. If they are in trouble, then we get to help them. If they are having some chest pains, we take care of that. If they are having problems with their breathing, we take care of that. We will notify their attending physicians about the problems that their own patients are having.

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Q. I see. The job you hold at St. Thomas, do you have like an office or a place in that hospital that you actually work out of?
A. We have a call room, so to speak.
Q. When you say "we," are you part of a group?
A. There are two of us who works as hospital employee.
Q. Okay. But those two, you and this other person, are you in a group together, or are you just both individual employees of the hospital?
A. We are individual employees of the hospital.
Q. Okay. Have you been an employee of St. Thomas then for the last 25 years?
A. That's right.
Q. So since about 1984, give or take?
A. Yes.
Q. Okay. How much of your current practice is, you know, working at St. Thomas Hospital?
A. One hundred percent.
Q. One hundred percent?
A. Uh-huh.
Q. So 100 percent of your time is at St. Thomas?

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A. Yes. Then we have off days.
Q. Okay. So you have days off?
A. Yeah.
Q. Okay. Do you do other medical work on your off days? Do you do other medical work? Do you have other medical affiliations or endeavors that you are involved in on your off days?
A. On my off days, I work part time here.
Q. And "here" meaning --
A. In this institution in Lucasville.
Q. Okay. I see. So as we sit here today, you're an employee of St. Thomas, correct, St. Thomas Hospital?
A. That's correct. It's Thomas Memorial Hospital.
Q. It is St. Thomas or Thomas?
A. Thomas.
Q. Okay. So there's no St. Thomas?
A. No St. Thomas.
Q. So I'm just not hearing you.
So it's Thomas Memorial Hospital?
A. That's right.
Q. And it's in what city?
A. South Charleston, West Virginia.
Q. Okay. And how big of a hospital is that?

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A. It's a big hospital. We have at least 230 beds, something like that.
Q. Okay. Do you know how many employees the hospital has?
A. No.
Q. Even a rough idea? Is it more than 100, more than 200?
A. More than 100.
Q. And you're on the staff there, correct?
A. I am.
Q. And 100 percent of your time, you work at that hospital?
A. During my work days.
Q. During your work days?
A. Uh-huh.
Q. How many days a week do you work at Thomas?
A. Seven days a week.
Q. Seven days a week?
A. Uh-huh.
Q. And what hours?
A. From 7:00 in the evening to 8:00 in the morning.
Q. So you work nights?
A. Nights.

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Q. Okay. And is that true every single day of the week?
A. Yes, during my work days -- during my work week.
Q. I guess I'm just trying to understand. What is your work week comprised of? What days of the week constitute your work week?
A. Okay. From Tuesday in the evening up to Monday in the evening. Then after that, I'm off. Then I'm back again Tuesday to Monday.
Q. So you're basically on seven days, correct?
A. Correct.
Q. And then off for how long?
A. Off seven days.
Q. Off seven days?
A. That's right.
Q. And then you're on seven?
A. On seven.
Q. And then off seven?
A. Off seven.
Q. I got you. So when you're on, your on?
A. When I'm on, I'm on.
Q. You're on 24 hours a day, basically?
A. Not 24 hours.

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Q. Just 12 hours a day?
A. Twelve, 13 hours.
Q. Okay. So 13 hours for seven consecutive days?
A. That's right.
Q. Then you get a whole week off?
A. That's right.
Q. And then you come back and you're on 13 hours for seven consecutive days?
A. That's right.
Q. I see. Okay. How long has that been sort of your practice or your work routine?
A. For the past ten years.
Q. Did you say ten or seven?
A. Ten.
Q. Ten years?
A. Ten years.
Q. Okay. Has it always been that you work nights?
A. That's right.
Q. And then this other person you mentioned, does that person work days? Is that how they staff it?
A. No. When I'm off, then this other person comes in.

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Q. Oh, I see. Who works during the day then?
A. Some hospitalist.
Q. A what?
A. Hospitalist.
Q. What's that, a hospitalist?
A. That's also doctors who work in the hospital, salaried by the hospital and who gets their own patients.
Q. Is that distinct though from what you are? Are you a hospitalist?
A. No, I am not.
Q. So somebody who is a hospitalist is somebody who is in private practice that works at the hospital? Is that what you're saying?
A. Yes.
Q. Whereas you're an actual employee of the hospital?
A. I am an employee of the hospital.
Q. Okay. Whereas the people in the daytime would be in their own outside groups that come in to the hospital that help staff the patients?
A. They also have their own groups, but they work in the hospital.
Q. I see. Okay.
A. I am not really sure about their -- how

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they work.
Q. Do you have a title at Thomas Memorial Hospital?
A. Do I have a title?
Q. Yes.
A. I am an M.D.
Q. I know. But are you called a staff physician or --
A. House staff.
Q. Do you have a business card, for example?
A. No.
Q. But you're considered on the house staff?
A. That's right.
Q. All right. Tell me a little bit about your -- you graduated med school in '69, correct?
A. That's correct.
Q. Did you have to take any kind of tests or anything to get your -- any kind of board certifications or anything like that?
A. Yes.
Q. Tell me about that.
A. I passed my ECFMG.
Q. What that stand for?
A. That's the testing for foreign medical graduates.

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Q. Do you know what that stands for?
A. Education Council for Foreign Medical Graduates.
Q. I see. So you had to take that --
A. Yes.
Q. -- in order to come and work in the U.S.? Is that how it works?
A. When you pass that, it doesn't really mean that you can work already.
Q. I see.
A. You have to pass the licensing, which I did.
Q. Okay.
A. That was called FLEX.
Q. FLEX. Okay.
A. Federal Licensing Examination.
Q. Is that something that foreign medical graduates have to take, or all medical graduates?
A. All medical graduates to have a license.
Q. So even somebody that goes to Ohio State Medical School, for example, if they want to have a license in the U.S., they would have to take that test, too?
A. That's correct.
Q. I got you.

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A. And some of them take the state boards.
Q. The state boards as well?
A. Yeah. Not all states give state boards. I don't know how it is right now, because it was a long time ago.
Q. Okay. When you -- so you passed your foreign medical graduate exam and you did your FLEX exam, correct?
A. That's correct.
Q. Did you have to do any state boards?
A. No.
Q. All right. Are you licensed today in any states?
A. Yes, I am.
Q. Which states?
A. I am licensed in West Virginia.
Q. Okay.
A. I am licensed in Ohio.
Q. Okay.
A. In Hawaii.
Q. Okay.
A. Michigan.
Q. Okay.
A. Retired active in the State of Washington.
Q. Okay.

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A. And also I'm licensed in Georgia.
Q. Okay. That's a lot of different states. Have you worked in any of those states as a physician or as an M.D.? I guess we know you have worked in West Virginia, because you're still working there, correct?
A. I'm still working there.
Q. In Ohio, we know you have worked there because you're working here now.
A. I'm working here now.
Q. What about Hawaii? Have you worked in Hawaii?
A. No.
Q. Okay. What about in Michigan? Have you ever worked in Michigan as a physician or as an M.D.?
A. Once doing physicals for this company. It was only for one week.
Q. I see. What about Georgia? Have you ever worked in Georgia?
A. No.
Q. And what about in the State of Washington?
A. Once. That was many years ago for one week.
Q. Okay. Any other states that you're

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licensed in?
A. No more.
Q. Did I ask about Georgia? Have you ever worked in Georgia?
A. No.
Q. For the states that you have licensure but have never worked in, why -- can you tell me why you would have a license in those states?
A. We just asked for reciprocity just in case we will have to work in those states.
Q. All right. Now, do you have any board certifications?
A. No.
Q. What I mean by that, like there's the society of -- you understand what I mean when I ask about boards?
A. Yes.
Q. Are you board certified in any specialties or fields?
A. No.
Q. Okay. So your practice is family practice; is that correct?
A. That's correct.
Q. And when you described what a family practitioner is, you gave us some explanation. Is

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that what you do as Thomas Memorial?
A. That's right.
Q. Okay. In any part of your practice, are you involved in inserting IVs?
A. Yes.
Q. Tell me about that. What practice do you have in that? Tell me how your practice engages you in that activity.
A. Well, when the nurses cannot get any IV access, then they call me. They call -- they call me.
Q. The nurses at Thomas Memorial?
A. That's right.
Q. And does that happen on a regular basis, frequently, infrequently?
A. Frequently.
Q. Like how often, once a week, once a day?
A. Like I said, I work there seven days -- seven nights a week, and most of the time when I am working, they call me.
Q. Okay. So pretty much every day then you're involved in that?
A. That's correct.
Q. All right. And why do they call you; do you know?

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A. Because they were having difficulty in obtaining an IV access.
Q. But why would they call you then?
A. Because they were having difficulty. They cannot access the veins.
Q. But why would they call on you? I mean, are you better at that? Are you more able than they are to do that kind of thing? I guess I'm just trying to understand.
A. Yeah, maybe I am better. And most of the time when they call me, I can put it in.
Q. Is that right?
A. Yes.
Q. Okay. So you have had some practice or some experience inserting IVs?
A. Definitely.
Q. Tell me where is sort of the -- what are the places that you get involved in inserting IVs at Thomas Memorial Hospital.
A. In the arms. Mostly in the arms.
Q. In the antecubital area?
A. Antecubital.
Q. Anywhere else?
A. Sometimes if it's really -- that we cannot really see anything, we try it in the feet.

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Q. The feet?
A. (Witness nodded head.)
Q. Any place else that you have practiced or had experience at Thomas Memorial?
A. Maybe in the shoulders on occasion.
Q. Okay. Is the preferred area though the antecubital area? Is that typically the area that you're going to be -- in the hospital setting, where you're going to be obtaining IV access?
A. In the antecubital or in the hands.
Q. Okay. As a physician, is there a preferred area? If you had your choice, where would you go first?
A. If I had my choice, I will go to the veins that I can see. Most of those veins are in the hands or in the arms.
Q. Okay. Is that then in preference to the antecubital area? Are they less visible in the hands than in the arms?
A. They are less visible. And besides, patients have a tendency to be moving their arms.
Q. I see. And what would that mean? That would -- that could cause the antecubital IV to, what, fall out or --
A. It may get infiltrated.

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Q. So that kind of movement can upset the setting of the IV; is that right?
A. That's correct.
Q. So I take it then that you would consider yourself to be pretty proficient in gaining IV access on patients?
A. That's correct.
Q. Okay. And you have had experience then -- has it been 40 years of experience of that, or more?
A. Has it been 40 years?
Q. Well, '69 is when you graduated.
A. '69 when I graduated.
Q. I was just thinking that that's 40 years ago.
A. That I graduated. But I have been in the hospital for 25 years.
Q. Well, I mean, you graduated in 1969. Did you practice medicine between 1969 and 1984?
A. No.
Q. What did you do then?
A. I work in some other -- in medical, then I took my residency training.
Q. Okay. So when you graduated medical school, you weren't able to go right in to the practice? Is that what you're saying?

A. That's correct.
Q. And why is that?
A. Because we still have to take our FLEX, our licensing exams.
Q. I see. Okay. And when did you take those exams? What year? If it's easier, how many years after you graduated med school? Maybe that's an easier way to answer.
A. Okay. You're asking me when I took my exam?
Q. Just your best -- it doesn't have to be exact. I'm just trying to get a rough sense as to when you -- you said you graduated med school in '69 and you had to take your exam before you could practice. I'm just trying to get a rough sense of how long after med school that would have been, five years, ten years, 15 years?
A. Approximately ten years.
Q. And during those ten years, is it your testimony that you would have been doing things to kind of prepare to take those exams? Here's why I'm confused. In the U.S., for example, I have a brother that went to Ohio State Medical School. You go to medical school, you graduate, you take your exams and basically you have to do your residency

and all that stuff, but then you're ready to practice. It sounds like the way you did it is a little different. You went to medical school, correct?
A. Yes.
Q. You graduated in 1969, correct?
A. Okay.
Q. Then there seems to be a long period of time before you actually practiced. I'm just trying to understand why that is.
A. Well, I practiced in the Philippines before coming here. I came to the States in 1973.
Q. Oh, I see. Okay.
A. It's been a long time. I took my residency -- okay. I came to the States in 1973 and I stayed in Hawaii for four years.
Q. Okay.
A. I did not work as a doctor because you still have, as I said, you have to pass your boards -- your licensing, which I haven't done yet during that time.
Q. Okay.
A. Then from Hawaii, I went to Cleveland where I had my residency for three years.
Q. Okay. So that took you to about what

year?
A. Huh?
Q. That took you to about what year? Would have been the late '70s, early '80s, '81, '82?
A. '80.
Q. Okay. So you spent a couple years in Cleveland?
A. Three years actually, because I did my residency in Cleveland, Ohio.
Q. And then after your residency, what did you do?
A. After my residency, I came to South Charleston, West Virginia.
Q. Okay. And is that when you began working at Thomas Memorial?
A. Yes.
Q. So that would have been about 1984 or thereabouts?
A. You're getting me confused.
Q. I don't mean to be. Was there a period between Cleveland and Charleston?
A. No. From Cleveland, I went directly to South Charleston.
Q. Did you start at the hospital earlier than '84? Because there's four years, it seems, there

that are kind of missing. Maybe you started at Thomas Memorial earlier than 1984. Is that possible?
A. Yes.
Q. Or were you in some other practice in West Virginia before that?
A. No. I was in South Charleston at Thomas. I have been with them for almost 29 years, because next year I will be receiving my 30 years being with them.
Q. Okay. When you said 1984 earlier, the answer, you're saying now, is that it was around 1980 or so that you started with Thomas?
A. That's right.
Q. So '80 or '81?
A. '80 or '81.
Q. Okay. So you did your residency in Cleveland, Ohio from '78 to '80 or thereabouts; is that correct?
A. That's correct.
Q. All right. What was your residency in?
A. General practice/psychiatry.
Q. Both, or what?
A. Both. The first year was psychiatry and then I went to general practice.

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Q. Okay. So when did you -- how long has it been the case that you have this one week on/one week off rotation? Has it been that way for 25 or 30 years?
A. Oh, no.
Q. You said that's just been, what, that last seven years?
A. The last --
Q. Ten years?
A. -- maybe ten years or so.
Q. Okay. So when you have got this whole week off, that seems like a pretty nice thing to have, to have a whole week off. But it sounds like you use that to do other work; is that correct?
A. That's correct.
Q. Have you always done that in the ten years that you have had that sort of one week on/one week off rotation?
A. Maybe just the past -- maybe just the past six or seven years.
Q. Okay. And what kinds of things have you done?
A. During my week off?
Q. Yeah. In those last six or seven years when you have done other work, what kinds of other

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work have you done?
A. Just filling up for some doctors who wanted to go on vacation.
Q. So that would be at Thomas, or at other places?
A. Other place.
Q. I see. Would that be in West Virginia, that kind of stuff?
A. Sometimes some West Virginia, sometimes -- like I said, I work in Ohio. I worked in the State of Washington for one week and one week Michigan.
Q. Okay. When did you first work in a prison setting?
A. I worked in a prison setting for the past five or six years.
Q. And in which prisons have you worked at, ma'am?
A. I worked at Mt. Olive Correctional Facility. That was in West Virginia.
Q. Was that in Mt. Olive, West Virginia?
A. That's the name of the facility, Mt. Olive Correctional Facility.
Q. What city in West Virginia, if you can recall?
A. I forget. It was 50 miles away from

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Charleston.
Q. That's all right. We can find out. But you don't remember right now what the name of the city is, I guess; is that right?
A. Okay. And then I work in Lakins Correctional Facility for women.
Q. How do you spell that?
A. L-a-k-i-n-s.
Q. And is that in West Virginia, too?
A. That is in West Virginia.
Q. Okay.
A. I worked there for one week.
Q. One week there. How long at Mt. Olive?
A. Mt. Olive, two weeks.
Q. Two weeks. Where else?
A. Then here in Lucasville.
Q. Okay. When did you first start working here at Lucasville?
A. I first started here in Lucasville maybe five years ago. I worked for three months, but not continuously.
Q. Well, obviously, you have your Thomas Memorial Hospital employment, so you couldn't be continuous.
A. That's correct.

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Q. But on your off weeks, --
A. That's correct.
Q. -- you would work in Lucasville. This was five years ago for a period of about three months that you had sort of an on-again, off-again --
A. That's correct.
Q. -- work here at this facility; is that correct?
A. That's correct.
Q. All right. Any other stints at Lucasville besides that three-month stint five years ago?
A. I'm working here at Lucasville, but I also work in Ross.
Q. Ross Correctional Institution?
A. Uh-huh.
Q. Is that in Ohio?
A. That's in Ohio.
Q. Okay. How long have you been working there?
A. I just worked there -- I worked there not too long ago. Two months ago.
Q. I guess my -- let me just back up a little bit. Let's stay on Lucasville for a minute if we could. You worked there for three months five years ago, right?

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A. Uh-huh.
Q. Did you then have another stint at Lucasville? Obviously, you came back, right, because you're working here still?
A. Yeah, I came back a year ago, up to now.
Q. Okay. So five years ago you did it for about three months, correct?
A. That's correct.
Q. And then didn't do it again?
A. Didn't do it again.
Q. Until about a year ago?
A. That's correct.
Q. And you came back to Lucasville about a year ago; is that correct?
A. That's correct.
Q. Do you remember specifically the month, what month of that year or anything specific?
A. I don't know.
Q. You don't know?
A. I don't know.
Q. You think it's about a year ago?
A. I think it's about a year ago.
Q. How did it come to be that you came back here? Were you recruited to come back? Did you call and see if they needed anyone? Did someone

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call you?
A. I did not call. I had this locum tenens. I don't know if you know that, the locum tenens agency.
Q. Okay.
A. They call if I have some availability to work at a certain institution, and I said yes.
Q. Okay. Could you spell that, local --
A. Locum tenens, l-o-c-u-m t-e-n-e-n-s.
Q. Okay. Locum tenens.
A. It is like an agency -- getting doctors to work with them at some clinics. They call this agency, the locum tenens, and ask them if you have anybody in your agency who can fill this position, things like that.
Q. So somebody was -- so locum tenens had a need or somebody told locum tenens that Lucasville has a need for a physician?
A. That's correct.
Q. And you were contacted by locum tenens?
A. That's correct.
Q. And you said, yeah, I'd like to try that?
A. That's correct.
Q. Did you come here and interview, or what happened?

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A. No, I did not come for an interview.
Q. Okay. Did you just get picked to -- selected to be the person to come work here? Is that how it happened?
A. Well, --
MR. SWEENEY: While you're thinking about it, let me take a quick break.
(Recess taken.)
Q. (By Mr. Sweeney) We were talking about locum tenens. You evidently were called by them about a possible opening here; is that correct?
A. That's correct.
Q. They were looking for, what, a part-time physician; is that right? What they were looking for?
A. They were looking for somebody who can staff the facility depending upon what availability I have.
Q. I see. And did you follow up on this opportunity as to one you would like to look in to?
A. I don't follow them up. They are the ones who are calling me back.
Q. I understand. But you expressed interest?
A. Yeah, because I don't have to work during the weeks that -- during the dates that I am telling

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them.
Q. Right. You have got that week off every other week.
A. That's correct.
Q. So you thought that this would be a good opportunity to continue to practice and make some extra money?
A. That's correct.
Q. And so you were interested in exploring the available -- the opening for a physician here at the institution, the prison here, correct?
A. That's correct.
Q. So what did you do to follow up? Did you have to come here and talk to anyone or call anyone? What did you have to do to end up actually working here?
A. The locum tenens will send me like a confirmation that I am confirmed for those dates that I am available.
Q. I see.
A. And then those dates that I am available, then I come in.
Q. I see. So what dates did they confirm you for? Were they specific dates or like every other Monday or --

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A. There were specific dates that I tell them that I am available.
Q. I see. And is that something that's even continuing to this day, where they will call you and tell you what dates? How does that work?
A. They will ask me what available dates I have, and I will tell them that I am available on this and this date for the next two months or so.
Q. Okay. Who actually pays you, locum tenens or the Lucasville prison or the State of Ohio or who?
A. Locum tenens.
Q. Okay. So you actually consider yourself as basically working for them, is that right, in this engagement?
A. That's correct.
Q. Okay. So if there's a pay -- you get a paycheck, I imagine, right?
A. From them.
Q. And it comes from locum tenens; is that correct?
A. That's correct.
Q. So is that some sort of business then somewhere? Is that like a company or a business of some sort?

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A. I don't know.
Q. I mean, who do you work with? Is there somebody you report to there?
A. I fax them in my worksheet from here. I fax it to them.
Q. What do you mean, like your time sheets or something?
A. My time sheets.
Q. That's how you report your hours, correct?
A. That's correct.
Q. And then you get paid, correct?
A. That's correct.
Q. But they are the ones that are cutting the check to you, locum tenens, correct?
A. That's correct.
Q. I guess my question is, do you have somebody that you work with there, some contact person, some name? Is there some person there that you would call up if you had some issue, you know, about this job? That's my question.
A. Yes.
Q. Who is that?
A. The one who is calling me is Lori Jennings.
Q. Do you know what her position is with

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locum tenens?
A. I know she's a staff recruiter for the government, but I don't really know her title.
Q. Okay. For which government, the State of Ohio or --
A. I don't know.
Q. Okay. Do they have an office that you have ever been to? Have you ever been to their office, locum tenens?
A. No.
Q. So your communications with them have always been either on the phone or through faxes?
A. Phone, e-mail, fax.
Q. Okay. But in any event, that's the company that essentially reached out to you about a possible opportunity to work here at Lucasville, correct?
A. That's correct.
Q. You said, yeah, I'd like to work there, correct?
A. Correct.
Q. And for about a year now, you have been doing that, correct?
A. That's correct.
Q. And how often have you been working,

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roughly, here at Lucasville over that past year?
A. Basically every other week.
Q. Every other week? Okay. For example, are you working this week?
A. I am working with them this week.
Q. Working with locum tenens?
A. With locum tenens at Lucasville.
Q. Okay. You are working here at Lucasville this week, the week of September 28th?
A. September 28th up to tomorrow, October the 2nd.
Q. So that's Monday, Tuesday, Wednesday, Thursday, Friday?
A. No. It's Tuesday, Wednesday, Thursday, Friday.
Q. So four days this week you have worked here at Lucasville?
A. Yes. I work here four days a week.
Q. Okay. So on your off weeks for the last year, has it been your practice to work here at Lucasville four of those days?
A. Four of those days, that's correct.
Q. Okay. So your typical, you know, routine for the past year has been one week at Thomas Memorial, correct?

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A. That's correct.
Q. Then you have your week off from Thomas Memorial, right?
A. That's correct.
Q. During that week off, you work here at Lucasville from Tuesday to Friday, correct?
A. That's correct.
Q. And then you will have the weekend off, correct?
A. That's correct.
Q. And then you'll go back to Thomas, correct, for your full week?
A. That's correct.
Q. Then you will have another week off, and during that week off, you will have four days here at Lucasville?
A. That's correct.
Q. And that's the way it's been for roughly the past year; is that correct?
A. That's correct.
Q. I got you. Are you the only one from locum tenens, to your knowledge, that's working here at Lucasville, or are there other doctors that are provided to this institution by locum tenens?
A. I don't know.

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Q. So as far as you know, you're the only one?
A. As far as I know, I'm the only doctor provided by locum tenens.
Q. Are there any other doctors here at Lucasville besides you?
A. That's correct. There is some other doctors.
Q. How many other doctors?
A. There is one other doctor here who works with me, and there are -- I think there are two other doctors who work psychiatry.
Q. Okay. Who is the doctor that works with you, the other doctor?
A. Doctor Morford.
Q. Okay. First name; do you know?
A. Jane.
Q. It's a female?
A. A female.
Q. Jane Morford. How long has she worked here, if you know?
A. I don't remember.
Q. Okay. Longer than you or shorter?
A. No, shorter. Maybe -- I don't know.
Q. Is she on a -- working for like a

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contracting company, too, sort of like you, or do you know?
A. She's her own contractor.
Q. Okay. So she's got her own contract directly with the facility or with the State of Ohio, as far as you know?
A. I don't know. I cannot answer that because I don't know.
Q. I know you may not know, unless she has told you, I guess. Has she told you what her --
A. She told me that she is her own contractor. That's as far as I know about her.
Q. All right. Fair enough. Where as your contract relationship would be locum tenens has the contract and you're working for them, correct?
A. That's correct.
Q. All right. And Doctor Morford, does she cover the week that you would be at Thomas Memorial? Is that how that works, or not? Is there some different arrangement?
A. Yes. She covers because she is the full-time doctor here.
Q. Okay. So she's full time here?
A. Yes.
Q. So she is here every day of the week?

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A. That's correct.
Q. Fifty weeks a year?
A. I don't know how her work -- her off days work, but --
Q. Understood. But she's essentially full time at this institution, so she comes every day?
A. That's correct.
Q. Every workday she will be here?
A. That's correct.
Q. Do you have a boss here at the institution, somebody you report to or somebody you answer to?
A. She's not really my boss, but she's the healthcare administrator.
Q. And who is that?
A. Rosie Clagg.
Q. Okay. When you say she's not really your boss, what do you mean by that?
A. I don't answer to her. I just tell her what problems there might be about some of the workers and things like that.
Q. Okay. Is there anyone here you answer to, so to speak?
A. No.
Q. Who provides you guidance and direction as

to what you're supposed to be doing on the days you're working here? Who gives you your duties, your tasks, your assignments?
A. The nurses.
Q. Can you explain that? Expand on that for me, if you will.
A. The nurses would set up the things that has to be done for the day.
Q. I see.
A. That's basically how we work.
Q. Could you just give us an example? Say for today, which is probably fresh in your mind.
A. Okay. Today is --
Q. You showed up today and today is a Thursday. You don't have to give me the names of any inmates or anything, but just sort of --
A. No, because I don't know the names of these inmates.
Q. Okay. Give us an idea of what a typical day would be like. You show up and what happens?
A. I show up and they tell me that I have to go to such and such blocks, like J-Block or K-Block to see inmates there.
Q. Okay. So they give you a schedule of people you need to see there?

A. Yes. They have a list of people who need to be seen.
Q. Okay. And what kinds of things do you do when you see the inmates? What are you seeing them for?
A. Most of them have back pains, shoulder pains, knee pains, headaches. Basically most of them have been wanting medication.
Q. I see. Can you prescribe medication for them? Is that something you can do as a doctor?
A. Yes.
Q. And is that something you do from time to time, prescribe meds for the patients here, the inmates?
A. That's correct.
Q. Okay. So do you -- essentially, are you performing the same type of family practice medicine here at the institution that you perform at Thomas Memorial?
A. That's correct.
Q. You don't do surgery or anything like that?
A. No.
Q. You're dealing with aches and pains and fevers --

A. That's correct.
Q. -- and sicknesses and kind of the routine medical needs of the prison population?
A. That's correct.
Q. Okay. And from time to time, would that involve administering shots, for example?
A. I don't administer shots. The shots are being given by the nurses.
Q. Okay. But you would prescribe medication from time to time, correct?
A. I prescribe medications. I prescribe shots and antibiotics that the nurses have to carry. They are the ones that give the shots.
Q. I imagine you keep medical charts of the people you see, correct?
A. That's correct. They have their own charts.
Q. So if you're seeing Prisoner X, you're going to have this chart and you're going to be making notes on that chart as to what you did and what you prescribed and what you observed and that type of thing?
A. That's correct.
Q. All right. So it's essentially just a regular medical practice that you're doing four days

a week, every other week, here at this institution for the past year; is that correct?
A. That's correct.
Q. All right. Have you, in that past year, become familiar with, you know, so to speak, the management of this institution, the people who run it and who are in charge? Have you become familiar with them?
A. Yes.
Q. For example, the warden? Do you know who the warden is?
A. The warden is Mr. Collins.
Q. Collins? What does he look like?
A. I think that's him (indicating).
Q. This guy right here? This handsome guy right above my shoulder?
A. I think that's the one.
Q. That is Phillip Kerns, K-e-r-n-s.
A. I don't know.
Q. He is the warden, you're right. I'm just trying to understand if you know who the -- if you had interaction with the management here at the prison. For example, the warden. You recognize that picture of Mr. Kerns as being the warden; is that correct? Or not? I'm not trying to put words

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in your mouth. I'm just trying to understand what you know.
A. I think he's the warden.
Q. All right.
A. But I haven't really had contact with him.
Q. Have you ever met the warden or spoken to the warden?
A. Maybe one time in passing. Somebody introduced him as the warden, and I said, "I'm Doctor Bautista."
Q. Okay. So you may have met him in passing?
A. Yes.
Q. The director of the department, have you ever met him, of the entire department, the Ohio Department of Rehabilitation and Corrections? His name is Collins.
A. Oh, that's the Collins.
Q. Have you ever met Director Collins?
A. No.
Q. All right. Would you be able to pick him out of a room of people, or not?
A. No.
Q. Okay. So to the best of your knowledge, you have never met the director?
A. No, I haven't met the director.

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Q. Have you ever spoken to him?
A. No, because I haven't met him.
Q. Well, you could speak to him on the phone, for example, and still not meet him. That's what I mean.
A. No.
Q. Have you ever spoken to him on the phone, for example?
A. No.
Q. Have you ever communicated with him, to your knowledge?
A. No.
Q. All right. What about the major? There's the major -- the director of security. Have you ever -- do you interact with him at all?
A. I don't know what the director of the security is.
Q. Okay. Did somebody help set up your deposition for today, tell you that you need to be deposed and come to you wearing a white shirt? He would have been wearing the white shirt with the uniform and the major emblem on the --
A. You're asking me if he was the one who --
Q. Was he the one who set up your deposition?
A. No.

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Q. Who did that? Who told you that you needed to be deposed today?
A. Rosie.
Q. Rosie Clagg?
A. Uh-huh.
Q. All right. Do you -- as part of your duties here, do you attend staff meeting or meetings of the people that work here? Is that part of your job, or not?
A. I attended two meetings.
Q. Two meetings?
A. Two meetings.
Q. In the year since you have been here?
A. Let me see now. Maybe two or three.
Q. Okay. Can you tell me what the topics were or what the purposes of those meetings were? What kind of meetings?
A. The one that I can remember was for the quality.
Q. Quality --
A. Two meetings for the quality assurance.
Q. Quality assurance in the medical setting?
A. Yes.
Q. Or quality assurance -- so in the medical setting?

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A. Medical.
Q. So is this a meeting that the medical people, the nurses, the phlebotomists, the people that work in the medical department were all required to attend at one point or another, to your knowledge?
A. To my knowledge, yes.
Q. And so you -- as one of those people, you were asked to attend as well; is that correct?
A. That's correct.
Q. Any other meetings that you have attended with people from --
A. The other one was the mortality meeting.
Q. And what is that?
A. The one where if there are some mortalities in the institution.
Q. In other words, if somebody died?
A. If somebody died.
Q. What did this meeting address, what the procedures would be or what the policies were, or what?
A. Well, whether something could have been done or what else could have been done and things regarding that.
Q. Are you familiar with or have you heard

the term execution team, the execution team here at the prison?
A. Team? Execution team?
Q. Execution team, yes. Have you heard that term?
A. I have heard about the execution, but not the execution team.
Q. Okay. So if I were to ask do you know any of the people who are on the execution team, I guess your answer would be you don't know?
A. No.
Q. Is that right?
A. I don't know.
Q. Okay. Do you even know, as you sit here today, that there is something at this institution known as the execution team?
A. I don't know that there is such an execution team.
Q. Okay. Do you know - I guess you know or you must know - that one of the things they do here at this prison, Lucasville, is conduct the executions that are ordered by the courts of the State of Ohio? Are you aware of that?
A. Yes. They told me that.
Q. When did they tell you that?

A. Just last week or -- well, two weeks ago.
Q. Two weeks ago in connection with the execution of Mr. Broom?
A. That's correct.
Q. So before that, were you not aware that the prison here is the location where Ohio carries out its executions?
A. I wasn't aware.
Q. Who told you that this is the place where executions are conducted?
A. Rosie.
Q. And tell me what she said.
A. She said that this is the only place where people from other institutions are sent to if they are going to be, you know, executed.
Q. And when did she tell you that?
A. Last -- two weeks -- I don't know the exact date, but two weeks ago.
Q. How did that topic come up?
A. Because I asked -- I asked them if there was any other place where people are executed, and I was told that this is the only place.
Q. And where did this discussion occur?
A. While I was walking down the hall going to that place.

Q. Going to the place where they conduct the executions?
A. That's correct.
Q. They call that the death house. Are you aware of that?
A. Oh.
Q. Are you aware of that?
A. No.
Q. Is that -- are you hearing that from me for the first time, that that's what they call it?
A. That's what they call it. I heard it from you.
Q. You're hearing it from me for the first time? You never heard that before?
A. That is it called the death house.
Q. That's what they call it here.
A. That's what they call it here.
Q. Did you know that before just a moment ago, or not?
A. When they -- two weeks ago, but I did not hear it as a death house.
Q. What did you hear it called?
A. The place where people are being executed. But they did not really term it as a death house.
Q. Okay. But it's a little building sort of

in the middle of the yard here, right, sort of off -- isn't it?
A. I don't even know if it's in the middle of the yard.
Q. Well, where is it?
A. It's the first time I have been there.
Q. So had you ever been to the death house -- let's call it the execution building. Have you ever been to the execution building before the time you were there a couple weeks ago?
A. No.
Q. Okay.
A. As I told you, that was my first time.
Q. Okay. And is it also true that before you went to that building that day, you did not know that that building was used as the location for carrying out executions? Is that true, too?
A. That's correct.
Q. And is it also true that the first time you learned that prisoners were actually executed here was on that day two weeks ago?
A. That's correct.
Q. So in the past year that you have been here, you never learned that prisoners are executed here in Lucasville, Ohio at this prison?

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A. That's correct.
Q. And I take it -- so if you were here -- I don't know what the record shows. I think the record shows that since -- this is October of 2009. If your recollection is that you have been working here for about a year, that takes us back to October of 2008. So since October of 2008 until now, there have been --
MR. BOHNERT: Six up to Getsy, plus seven with Broom.
Q. There have been six executions actually conducted, maybe more, here at this prison in that year, if that's what the record shows. Is it my understanding that you were just not aware of any of those executions?
A. I am not aware. Maybe those executions were done during my off days.
Q. I understand. There may be a reason why you don't know. I just want to make sure or confirm that if there were -- I think the record shows that there were six in the past year. So you were just not aware that those six executions had been conducted here at this prison. Is that your testimony?
A. That's correct.

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Q. Okay. Does West Virginia, to your knowledge, have capital punishment, the State of West Virginia? Do you know if they execute?
A. I don't know.
Q. Have you ever, ever, before two weeks ago, had anything to do with or any involvement with any executions --
A. No.
Q. -- anywhere in the world?
A. No.
Q. You're saying that with kind of an anguished tone. Why is that?
A. No, because I am a doctor.
Q. I understand. And what does that -- I understand you're a doctor. But what is the significance of that insofar as that answer?
A. We are supposed to help people who are sick. We're supposed to heal people as such as we can.
Q. Okay. Now, tell me, if you would, Doctor Bautista, how was it that you ended up in that building two weeks ago?
A. Okay. Rosie called me and asked me if I can see something, if the inmate -- if I can see some veins during that time, because they were

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having problems getting a vein. So I told them yes.
Q. Okay. Where were you when you got this call?
A. I was -- okay. I was in the mini infirmary.
Q. I'm sorry, ma'am. Where?
A. I was in the office.
Q. Which office, the medical office?
A. The medical office.
Q. And where is that physically in this facility?
A. That's in the -- it's the first floor. They call it infirmary health -- IHR.
Q. IHR?
A. Something like that. It's the place where all the medical things are being conducted.
Q. Okay. And that's where you were --
A. Yes.
Q. -- that day?
A. Yes.
Q. I think the record will show -- let me ask you. What is your recollection of the date that this all happened? Do you remember the day and the date?
A. It was two weeks ago.

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Q. We know it wasn't a Monday because you don't work on Mondays, correct?
A. I don't work on Mondays.
Q. So was it a Tuesday?
A. Maybe it was a Tuesday.
Q. I think the record shows that the execution was on September 15th, the attempted execution, and that would have been Tuesday, September 15th.
A. Okay.
Q. Is that consistent with your recollection?
A. Tuesday. That's correct, yeah.
Q. Okay. You worked that day, correct?
A. Yes.
Q. What time did you start work that day?
A. I came in at around 10:00 during that day.
Q. 10:00 in the morning?
A. Uh-huh.
Q. So 10:00 a.m.?
A. A.m., yes.
Q. Do you have to drive from West Virginia to come here? Is that how that works?
A. During that day.
Q. And then you stay here for the rest of the week somewhere?

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A. That's correct.
Q. Do you have a house or an apartment or something?
A. Stayed at the Holiday Inn.
Q. Holiday Inn Express?
A. Uh-huh?
Q. Join the club.
MR. BOHNERT: That's where we are, too.
A. So maybe I saw you there having breakfast.
Q. That could be.
Okay. So how far -- how long of a drive is it from West Virginia to Lucasville, from Charleston where you live to Lucasville.
A. Two hours.
Q. So it's about two hours?
A. Around two hours.
Q. So you got here about 10:00 in the morning; is that correct?
A. That's correct.
Q. All right. What did you do when you got here?
A. I have to go inside the office and see what my schedule for the day is.
Q. Okay. Did you have a schedule for that day?

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A. Yes. Every time that we come in, we have a list of whoever is to be seen.
Q. Okay. Did you then, at some point -- after 10:00 when you arrived, did you begin to go about the duties of your day?
A. That's correct.
Q. And do you remember anything about what you did that morning of the 15th of September?
A. Yeah, I got a call from Rosie.
Q. What time did you get that call?
A. I know it was before 12:00.
Q. It was before 12:00?
A. Yes.
Q. And tell me -- how do you know it was before 12:00?
A. Because I have -- I thought that most of the executions are done by 10:00.
Q. How did you know that? Who told you?
A. Watching TV.
Q. Watching TV since this happened to Mr. Broom?
A. Well, watching television movies, those -- like LA Law and -- those law movies, law series.
Q. Oh, law and --
A. Law and Order and those.

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Q. Okay. I think the execution for Mr. Broom was supposed to start at 10:00, but I think the record will show that it got delayed until sometime after 1:00 in the afternoon. I don't -- I don't want to put words in your mouth or anything. I just want to try to help you recall, if possible, when it was you got this call from Ms. Clagg, the nurse, Rosie Clagg?
A. I really don't remember what time was that.
Q. But at the time you got the call, you were in the infirmary, in that medical area you testified about?
A. Yes.
Q. Okay. So you weren't making your rounds, so to speak? You weren't somewhere in the prison in some block somewhere working on inmates? Or were you? Did somebody have to come and get you or find you, or were you paged?
A. I think I was in the office. The nurse who was working with me escorted me to that place.
Q. To that execution room where they do the executions, right?
A. That's correct.
Q. Okay. But you got a phone call before

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that or after that?
A. Before that.
Q. And what did Rosie say?
A. She asked me if I can find or see a vein that can be placed, if I can see a vein.
Q. Okay. Did she tell you for what purpose?
A. I don't know if she told me for what purpose.
Q. Did she tell you it was in connection with the effort to conduct an execution?
A. Yes, she -- I think so, because I was so scared during that time. I was scared of going to that place. I told her, "I'm so scared." Yes, she did.
Q. So can you remember anything else that she said? Did she say that they were having problems? Did they say anything like that?
A. Said that they were having problems and that's why she was calling me trying to see if I can find a vein.
Q. I see. All right. Did she say anything else that you can recall?
A. No.
Q. Did she say anything about -- did you view this as a requirement that you come and -- she

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called and asked, so did you view it as, you know, this is a person who is the supervisor of the medical unit, the healthcare administrator, she's called and asked and I'm required to go. Is that how you viewed it?
A. I think that's how I viewed it.
Q. I mean, you didn't look at it as something you had a choice in; is that correct?
A. I don't know.
Q. Well, did you even think about it? I'm just wondering what your state of mind was. You get this call to -- you said you were scared, correct?
A. Yes.
Q. Why were you scared?
A. Because she told me that there was this guy who they were trying to see if they can get an IV to be executed. That's why I'm scared.
Q. Okay. So she told you all of that, correct? Right?
A. That's correct.
Q. So you knew you were being asked to come and essentially help them find a vein so that they could execute this guy, right?
A. She did not really say that they were trying to find the vein so they could execute the

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guy.
Q. But that's what you understood her to be asking you to do, correct?
A. To find a vein.
Q. Right. Correct?
A. But she did not tell me to find a vein to help execute the guy.
Q. Okay. I'm not trying to put words in your mouth. But you were scared because you knew the reason they were looking for a vein was so that they could execute him, correct?
A. I was scared because I haven't been to that place and I don't know what's going -- what I'm going to expect from that place.
Q. Well, you certainly --
A. That's why I was scared.
Q. Okay. You certainly wouldn't be scared about starting an IV, because that sounds like that's something you have done a lot, correct?
A. Oh, no. I'm not scared starting an IV.
Q. And you weren't scared because you have never been to the building before either, I would imagine, right? I mean, there's several --
A. Say that again, please.
Q. You weren't -- there's nothing to be

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afraid of in going to a building here, is there? I mean, you weren't afraid because you had to go to this building, were you?
A. I was afraid because I haven't been to that place where that they call this execution thing.
Q. Did you know when you were asked to come over there that they were, that day, in the process of trying to carry out an execution?
A. Yes. I knew about that because when I came in, all those cars were -- that were parked in front were -- they were not parked there, and they were all parked in the back.
Q. And what did that tell you? What was the significance of that, in your mind?
A. They told me that the reason is somebody is going to be executed.
Q. Okay. So when you got the call from Rosie and she told you they needed your help to come see if you could find a vein, you knew it was because there was an execution going on in that building, correct?
A. Correct. And because they told me I have to go to this place, which I did not know the place.
Q. All right. And that's why you were

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scared, because you were going over there to this building you had never been to where you knew they were trying to execute one of the prisoners?
A. That's correct.
Q. All right. But you went anyway?
A. I went.
Q. Why did you go?
A. Just to find the vein.
Q. And why didn't you tell her, "No, I'm not going. I'm scared. I don't want to do this"?
A. I don't know why I did not say that.
Q. And I think what you said before is that because you got this call from the person who is essentially in charge, correct?
A. That's correct.
Q. And you really couldn't say no, correct?
MR. WILLE: I'll object to the premise of the question. I believe her testimony was she didn't know.
With that being said, you may answer.
Q. (By Mr. Sweeney) You viewed Rosie Clagg as essentially the boss, correct?
A. The boss of the medical team.
Q. Right. And you work on the medical team, correct?

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A. I work on the medical team.
Q. So she was essentially your boss here in your capacity as a medical team member at this institution; is that right?
A. Yeah.
Q. How much time were you given? Were you given any -- did Rosie say anything to the effect of, "You don't have to come if you don't want to" or "This is purely voluntary"? Did she say anything like that?
A. I think she said, "You don't have to come." I think she said that.
Q. Did she?
A. I'm not sure.
Q. Okay. But you came anyway?
A. I came.
Q. All right. Now, how did you get there?
A. A nurse escorted me to the place.
Q. Which nurse?
A. Tom.
Q. Okay. Does his last name begin with an L, to your knowledge?
A. L?
Q. Yes.
A. Yes.

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Q. So it's the same Tom that we have been talking about all day, I guess. So Tom, one of the nurses -- he just retired, in fact, didn't he?
A. He just retired and came back as an agency nurse.
Q. He did? So he's working here still?
A. Yeah. He started -- he works here today as an agency nurse.
Q. So in other words, he used to be an employee --
A. He used to be an employee of the state.
Q. But today --
A. He's a contract --
Q. -- he's back here as an agency nurse?
A. He's a contract nurse, an agency nurse.
Q. I got you. So he retired as a state employee, as far as you know, but is back here working nevertheless, correct?
A. Yes. And I think that is a wonderful idea.
Q. Is he a good nurse?
A. He is a good nurse.
Q. He's somebody you can count on?
A. That's correct.
Q. And I imagine in your job, he's somebody

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you have counted on over the past year?
A. That's correct.
Q. And you rely on him to do what you would expect a good nurse to do, correct?
A. That's correct.
Q. All right. You don't consider him to be hyper or anything like that?
A. No.
Q. You consider him to be a good professional nurse, correct?
A. That's correct.
Q. All right. So Tom escorted you over to the execution chamber; is that correct?
A. That's correct.
Q. Tell me what happened then.
A. He escorted me, and then he left. Somebody opened the door and let me in and showed me to the room where Mr. Broom was and asked me if I can see something.
Q. Okay. Do you recall who opened the door and let you in?
A. No.
Q. Okay. So you walked in to the chamber and there's a hallway there, correct?
A. There's a hallway.

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Q. You walked down that hallway and then there's the cell on the left, correct? Is it on your left? Would it have been on your left, or not? You tell me.
A. If I go in to that place, there are three cells on the left, and he was in the place on the right side.
MR. SWEENEY: Chuck, could you show her the exhibit we've been using. I think it's Exhibit 40?
MR. WILLE: Sure.
Q. If you could, just help us, Doctor Bautista, as to where you entered the room, the building and which way you walked. There appear to be -- do you see there's some stairways -- two staircases that go out here, one here and one here? It's on your document, too, sort of at the bottom of the page. Did you actually go outside to get to this building? Did Tom have to take you outside?
A. No.
Q. So you didn't have to leave the facility of the prison? You didn't have to go outdoors?
A. No.
Q. So you came in probably through the back way, I guess?

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A. Through the back -- it's not even the back way.
Q. Well, did you come in through the room here at the top, the door -- where there's a hallway here?
A. At the top, yes.
Q. Okay. So did you walk through a room where there were people sitting and waiting, or do you even remember? Before you got in to this room, before you went through this doorway, were there people out here in this room, out here? It's not shown on the diagram, but were there people out here waiting?
A. Out in the execution --
Q. In the area before you get to the execution room, sort of out here. This is the execution area here. Up in here, did you walk through a hallway where there were people waiting and sitting?
A. Yes.
Q. Do you remember seeing those people there?
A. Yes, there were people there.
Q. Did you know any of those people or recognize any of those people?
A. No.

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Q. Did you stop and talk to any of those people?
A. No.
Q. Did any of those people stop and talk to you?
A. No.
Q. So you and Tom just walked right through --
A. Tom did not come in with me. Tom just let me in and me left.
Q. Okay. So somebody let you in to that room where those people were all sitting, correct?
A. That's correct.
Q. But none of those people talked to you though?
A. No.
Q. So did you walk through this doorway then up here at the top? I'm pointing to the doorway right above the word "hallway"?
A. Yes.
Q. Is that the way you came in?
A. From the top, yes.
Q. And then you would have gone to your right; is that correct? You would have come in and gone this way; is that correct?

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A. Yes.
Q. Now, if you go straight ahead, you'll come to the cell where Mr. Broom was that day; is that right?
A. That's correct.
Q. All right. During the time you made that walk, was anyone with you?
A. Yeah, Rosie.
Q. Where did Rosie meet you?
A. There in that house -- in that place.
Q. I guess what -- here's where I'm confused. You said you were walking with Tom, correct? Tom let you in and --
A. Tom did not let me in.
Q. Well, Tom stopped, then he left --
A. Tom escorted me to the place.
Q. Right.
A. Then after somebody opened the door, he left.
Q. Okay.
A. He did not enter the room.
Q. All right. He left, so you're there by yourself, correct?
A. Uh-huh.
Q. You then walk in, correct?

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A. Somebody escorted me to the place.
Q. Okay. Who?
A. I don't know.
Q. All right. Where did Rosie get -- where did she come into the picture?
A. Maybe after I was let in.
Q. Okay. Did you and Rosie talk at all about what you were -- what was happening or what you needed to do or anything like that, when you saw her in person?
A. No.
Q. What did you say, if anything?
A. Just to see if there is a vein.
Q. I'm asking what you said. What did you say to Rosie?
A. I will see.
Q. So she said, "I want you to see if there's a vein," and you said to her, "I will see"?
A. Uh-huh.
Q. Okay. Is that all the words that were spoken between the two of you?
A. Yes.
Q. And then you walked through this hallway and in towards the holding cell; is that right?
A. That's correct.

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Q. So you were being escorted then by Rosie; is that right?
A. That's correct.
Q. Anybody else?
A. I don't remember.
Q. Did you stop and speak with anyone else before you went in the holding cell?
A. No.
Q. So you got to the holding cell. Was the door open or closed?
A. The door was open.
Q. And what did you see?
A. There were people in that cell trying to put an IV.
Q. Did you recognize any of those people?
A. I recognized just one.
Q. Which one?
A. The lady from the lab.
Q. And you don't need to tell me her name, because we're going by numbers. A female?
A. I don't even have to tell you the name, because I don't know her name.
Q. You don't know her name. Okay. Fair enough. But a female --
A. A female.

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Q. -- who works in the lab, correct?
A. That's correct.
Q. She's a phlebotomist? Do you know what she does or what her profession is?
A. Phlebotomist.
Q. So you know that she's a phlebotomist; is that right?
A. That's correct.
Q. Have you ever worked with her before?
A. Not directly, because she works in there. She's the one that gets all the blood works that we order.
Q. Okay.
A. I think she's the one.
Q. Have you ever seen her work? In other words, have you watched her technique, seen her draw blood or any of that?
A. No.
Q. So you then, I guess, don't have the ability to give us any kind of judgment about whether she's a good phlebotomist, a bad phlebotomist, anything like that?
A. No, I cannot.
Q. Okay. But in any event, you recognized her. She was in the cell, is that correct, working

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on Mr. Broom?
A. Yes.
Q. And she was the only person in there that you recognized; is that right?
A. That's correct.
Q. All right. How far did you actually go in to the cell?
A. I was just by the door.
Q. Okay. And when you looked in -- did you walk in past the threshold, so to speak, so you could see what was happening on all --
A. By "threshold," what do you mean?
Q. Well, past the opening of the door, actually go in to the cell.
A. No.
Q. Did you stay out in the hallway?
A. I was just in the hallway.
Q. Okay. Did you ever go in to the cell?
A. No.
Q. Okay. Could you see in to the cell from where you were standing?
A. Yes.
Q. Okay. And where did you see this lady from the lab? Where did you see her? Where was she at?

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A. She was standing by the right-hand side of the inmate.
Q. Where was the inmate? Was he on the bed or was he standing up? What was he doing?
A. He was in bed sitting.
Q. Sitting which way? Which way were his feet pointed, towards the door or towards the --
A. Towards the door.
Q. So his feet were pointed towards you; is that correct?
A. Towards me.
Q. All right. And the lady from the lab was working on the right side -- the right foot, did you say?
A. Not the right foot, the right --
Q. The right arm?
A. The right arm.
Q. And did you see -- did you see what she was doing on the right arm?
A. She was trying to put an IV.
Q. Okay. And did you -- how long did you watch that process?
A. You know, I wasn't even there maybe -- not even five minutes, maybe less than five minutes. Then I stepped out because I can't see anything.

Q. Okay. Let's get to that. I just want to know what -- how long did you observe the lady from the lab working on the right arm, or what you believe to be -- recall being the right arm?
A. I don't know.
Q. Okay. Did you see anybody else working on Mr. Broom's body trying to get an IV started, other than the lady from the lab, again, when you got there? Was anybody else doing anything towards trying to get an IV started besides the lady from the lab?
A. I'm not sure.
Q. Fair enough. You don't recall, right?
A. I don't recall.
Q. All right. What was your impression when you got there?
A. My impression?
Q. Yes. What was going through your mind? What were you thinking? What did you -- you're a doctor and you're skilled at assessing a situation, I imagine, quickly. Did you assess the situation when you got there?
A. That they cannot get a vein.
Q. How did you come to that conclusion?
A. First of all, I was told that they cannot

get a vein.
Q. Okay.
A. Then I saw this lab lady was trying to get a vein.
Q. And your observation was that she was not being successful; is that right?
A. Not successful.
Q. Was she actually poking the man with needles? Did you observe that, or not?
A. I don't recall.
Q. Okay. Did you, yourself, hear anyone say anything while you were there at the holding cell about what was happening or what they were doing or what they were observing? Did you hear anything?
A. No.
Q. Did you hear Mr. Broom say a single word or say anything while you were there?
A. No.
Q. Did you say anything while you were there?
A. No.
Q. Did you go in and touch Mr. Broom or observe his body in any respect?
A. No.
Q. Did you look at his arms?
A. No.

Q. Did you look at his legs?
A. I looked at his feet.
Q. You looked at his feet. Which foot did you look at?
A. I think it was the left foot.
Q. You think it was the left foot?
A. Yes.
Q. Tell me, where was his foot? Was it sticking out of the cell, or what?
A. I don't remember.
Q. Okay. But you remember looking at his -- what you think was his left foot; is that correct?
A. I think it was the left foot.
Q. Okay. Did you actually put your hands on the left foot?
A. I did once.
Q. Both hands, one hand?
A. Both hands.
Q. Okay. And what did you do?
A. I tried to put one in his left foot, but there was none, so I stepped out.
Q. Okay. Did you -- all right. When you said "I tried to put one in his left foot," what do you mean by that?
A. I tried to put an IV -- I tried to put a

needle for the IV, but it was unsuccessful.
Q. Okay. So you actually made an attempt to insert a needle in to his left foot; is that correct?
A. That's right.
Q. All right. Did he say anything or respond to that at all?
A. No.
Q. Did you hear him cry out in pain or say "ouch" or say anything?
A. No.
Q. Was he -- do you know whether he cried out in pain or said anything?
A. I don't know.
Q. Okay. So he may have and you just don't recall or didn't hear it, or don't recall hearing it? Is that correct?
A. I did not hear -- I did not hear him -- I did not hear him say anything.
Q. Okay. Now, before you -- how did you get a needle in your hand?
A. Somebody handed it to me.
Q. Did you ask for one?
A. No.
Q. Who handed it to you?

A. I don't know.
Q. Okay. Do you know what kind of needle you were handed?
A. I don't remember.
Q. Okay. Do you recall saying anything to the effect of "Give me a 20," or something like that?
A. I don't recall if I said that.
Q. You may have, you just don't recall in the heat of that moment; is that correct?
A. I don't know.
Q. You're agreeing that you don't recall; is that right?
A. I don't recall.
Q. All right. What is a 20 though? Is that lingo that would even be possible to be uttered by you? Is that the kind of lingo that might be used in this context?
A. A 20 is a gauge 20 needle.
Q. And what does that mean?
A. It's a gauge 20 needle.
Q. Is that the kind of needle you would use to insert in to a person's foot?
A. That's the gauge that we usually use to put an IV.

Q. Anywhere in the body, or just in certain parts of the body?
A. Anywhere in the body.
Q. Is it your practice then normally to use 20 gauge needles to start any and all IVs?
A. That's correct.
Q. Okay. So when you're going to start an IV, you want to use a 20; is that correct?
A. If I am going to start an IV.
Q. Right. You want to use a 20, correct?
A. That's correct.
Q. Not an 18, not a 15, not a 10. You want a 20, correct?
A. I want a 20.
Q. And why is that your preference?
A. Because the other gauge needle, a gauge 22, they are so soft and they just buckle and bend. If it's 24, that's the smallest that we use in pediatrics. If it's an 18, that's a big gauge needle that we use to give blood transfusions or to give IV fluids rapidly.
Q. So that 18 is something you want for rapid infusion? Is that what you're saying?
A. Yeah.
Q. Would 18 gauge needles be appropriate for

starting an IV for just administering drugs?
A. No.
Q. Why not?
A. That's a very -- that's a big gauge needle.
Q. And why is that not appropriate for just administering drugs?
A. As I said, that's a big gauge needle.
Q. Pretend you're talking to a fifth grader when it comes to the significance. I understand it's a bigger needle, but why does that matter? So what?
A. Because we can give medications through a gauge 22 needle.
Q. So you would prefer a smaller needle when you are administering medication?
A. That's correct.
Q. An 18 or a 15, those bigger needles, are they more painful to the patient?
A. It would be more painful if you don't see anything.
Q. It would be more painful if you don't -- if you're efforts are unsuccessful; is that right?
A. That's correct.
Q. Okay. So somebody handed you an IV,

correct? Is that what you would call it, an IV? Somebody handed you a needle?
A. Catheter.
Q. Catheter. What color was it; do you remember?
A. I don't remember.
Q. Are different gauges different colors?
A. Yes.
Q. For example, what color would a 20 typically be?
A. It will be orange.
Q. Orange?
A. Pink. I think it's pink.
Q. What would a higher gauge be?
A. An 18 is a green one.
Q. Is there a purple one?
A. I don't know if there is a purple one.
Q. That's what I'm asking. Do you know if there is a purple one?
A. I don't know if there's a purple one.
Q. In any event, the needle that you were handed, or the catheter you were handed, as you sit here today, you don't remember what color it was?
A. I don't remember.
Q. Okay. But you took it. Before you tried

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to insert it in to Mr. Broom's ankle, did you make any efforts to see with your hands, to sort of tap the skin or to try to see if there's a vein there you could go for?
A. Yes. My usual practice is to tap for the veins, because when you tap the veins, the veins would come out.
Q. Okay. And do you recall doing that on this day with respect to Mr. Broom, on his ankle, before you tried to insert the needle?
A. I don't recall.
Q. Okay. But your typical practice though would be to do that, correct?
A. That's correct, to see if veins would come out.
Q. All right. Do you recall actually taking the needle and trying to insert it in to his body?
A. Once.
Q. I know. But do you have a memory of that?
A. Yes.
Q. And how far in did it go?
A. Not too far, because there was no blood that came back out of the needle. I said "Nah, it's not going to work," so I took it out. That's it.
Q. Did you say that it was not going to work

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out loud, or was that something you were thinking or saying to yourself?
A. Maybe I said it to myself.
Q. Do you remember whether you said it out loud or to yourself?
A. I don't remember if I said it loud.
Q. I didn't say "loud," I said "out loud"?
A. I don't remember if I said it out loud.
Q. Okay. But in any event, whether you said it to yourself or out loud, your judgment after trying was that this is not going to work; is that correct?
A. That's correct.
Q. Why would it not work? Why did you come to that conclusion?
A. Because if you put an IV and you're in the vein, blood would come back out through the needle. There's no blood that came back.
Q. Well, I mean, I'm sure you have had the experience in the hospital, in the clinical setting, where you try for the first time and you don't get a hit, right?
A. Yes.
Q. I mean, that's not unheard of, correct?
A. Say that again.

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Q. That's not unheard of or unusual to try and not get blood the first time you try, correct?
A. That's correct.
Q. So why didn't you try again?
A. I don't want to.
Q. Why not?
A. Because there's no vein that I can see.
Q. So did you actually look around to see if you could see any veins then in the foot?
A. In the foot.
Q. So you spent some time looking to see if you could see any veins that you thought you might be able to get an IV in to; is that correct?
A. That's correct.
Q. And you tried once, correct?
A. Tries once.
Q. And then looked some more, or not?
A. No.
Q. You tried once and you had concluded after trying once, and based upon your visual exam that you had performed, that you weren't going to be able to get any success in that foot; is that correct?
A. That's correct.
Q. Did you consider going to any other parts of the body and trying there?

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A. No.
Q. Why not?
A. Because I'm thinking that they already tried, and I'm not going to try to again.
Q. Okay. Did you know at that point in time, when you were there that day, how many times or how long they had been trying?
A. I don't know.
Q. Did you have an impression that it had been for quite a while?
A. Maybe quite a while because they asked me.
Q. Okay. So you came there sort of knowing that they had been trying for some time, correct?
A. They had tried, but I don't know for how long.
Q. Right. But the fact that they had asked you led you to believe they had been trying for some time; is that correct?
A. That's correct.
Q. Because they had never asked you to do this before; is that right?
A. What do you mean?
Q. They have never asked you to do this before, correct? This was the first time you had ever been asked to do this, to try to help find a

vein for an execution?
A. As I've said, this is the first time that I have seen somebody to be executed.
Q. Right. That's what I'm -- we're saying the same thing. I'm saying that this was the first time they had ever asked you to try to find a vein -- to help them find a vein for an execution, correct?
A. That's correct.
Q. Now, I think we had some testimony that you did come in to the cell and did look around on the arms. Do you remember doing that, or not?
A. No.
Q. You don't remember doing that?
A. No.
Q. You're not saying it didn't happen, you just don't remember; is that correct?
A. I don't remember, no.
Q. Fair enough. Do you remember forming any kind of judgment as a physician as to the physical condition of Mr. Broom at the time you saw him?
A. I did not make a judgment because I was just trying to see a vein.
Q. Did you have any -- okay. Did you come to any -- based on your observations at the time you

were there, did he appear to you to be in any kind of distress or discomfort, "he" being Mr. Broom?
A. No.
Q. Okay. I think you answered this already. Did he say anything to you?
A. No.
Q. Did anybody introduce you? Did I ask that? Did anybody introduce you and say "This is Doctor Bautista" or "This is the doctor" or anything like that?
A. No.
Q. Okay.
A. No.
Q. All right. Did anyone say anything to you, anything at all that you can recall, while you were there at that holding cell?
A. Rosie told me that they were trying to get a vein.
Q. She told you that there at the holding cell, correct?
A. When she called me.
Q. Well, I know that. I know she told you that when she called you. You testified about that already. I'm asking now, while you were there at the holding cell, in the room in the execution

chamber, right there with Mr. Broom right in front of you, did anyone say anything to you at all, anybody?
A. No.
Q. Did you say anything to anybody at all that you can recall?
A. No.
Q. All right. And how long do you think you were there?
A. I wasn't even there maybe -- not even five minutes.
Q. Okay. Why did you choose to stop?
A. Because I don't think I can find a vein.
Q. Even only after one try; is that right?
A. Even after one try.
Q. Was there anything about Mr. Broom's veins that you thought looked peculiar or difficult or anything like that?
A. No.
Q. Had you heard, at the time you were there, any of the reasons why they were having difficulty getting a vein?
A. No.
Q. Have you heard since any reasons as to why they were having difficulty getting a vein that day?

A. Since? What do you mean since?
Q. Since that day, have you heard from anybody here at the institution, or anywhere, as to any of the reasons why they were having difficulty that day with Mr. Broom getting a vein, getting an IV started?
A. I heard that he was a drug user.
Q. Who did you hear that from?
A. I don't know. I just heard.
Q. Was there anything at all about your interaction with him, looking at his veins, doing whatever it was you did, that caused you to draw that conclusion? Is my question clear?
A. No.
Q. Okay. You said you heard from somebody after the fact, or from somewhere, that maybe he was a drug user; is that correct? You heard that?
A. After --
Q. Sometime after the 15th.
A. After that date, yes.
Q. So sometime after the date, you heard from somebody that maybe Mr. Broom was a drug user; is that correct?
A. That's correct.
Q. And my question is, that day when you were

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there, on September 15th when you were right there in his presence and you were looking at his veins on his feet or anywhere else you looked, there was nothing you saw that would allow you to draw that conclusion, correct?
A. Correct.
Q. Okay. So as to whether that's true or not, that he was a drug user or that drug use had anything at all to do with the difficulty, you have no knowledge, correct?
A. That's correct.
Q. Did anybody that day tell you, "Doctor, stop. That's enough. You can leave"? Or did you leave on your own?
A. I left on my own.
Q. Where did you go?
A. I left that holding cell and then stayed out in the hallway so somebody can escort me out.
Q. Okay. And how long were you there in the hallway?
A. Not too long. Maybe -- at least maybe three minutes or so.
Q. Did you have to have somebody escort you out, or could you have just left on your own?
A. Somebody had escorted me out.

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Q. Is that a requirement that somebody has to escort you out, or could you have just --
A. Yes. Somebody has to escort me out, because I don't know the place. And that place is locked, I think.
Q. So you waited.
A. Yes.
Q. Did somebody come to escort you out at some point?
A. Yes.
Q. Do you recall who that was?
A. Yes. Tom came back to --
Q. Tom came back to get you?
A. To get me.
Q. That reliable nurse, Tom?
A. That reliable nurse, Tom.
Q. Did he actually come all the way back in to the place by the holding cell to get you?
A. No, outside -- they opened the door and he was standing out there, yes.
Q. Okay.
A. He was standing out to escort me back to the infirmary.
Q. Okay. Did you speak with anyone at all about your -- what you saw or what you did there at

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the holding cell with Mr. Broom?
A. There were -- when I went out of that holding cell, there were people in the hallway talking, and I was there talking -- no, not me talking. They were talking and I was just listening until the time that Tom came back to escort me back.
Q. Okay. And what did you hear?
A. What I heard -- well, I really wasn't paying any attention.
Q. Really?
A. I must just be hearing but really not listening.
Q. Okay. Well, what did you hear?
A. What I heard was -- I don't remember. I don't remember.
Q. Okay. Do you remember who the people -- did you know who any of the people were?
A. Rosie was there.
Q. Rosie. Was the warden there, this guy here, Warden Kerns, the handsome, bald-headed man? Was he there?
A. I don't know if he's the one or if Mr. Collins was.
Q. Okay. He's taller, not quite as handsome. Just kidding. He's taller than Warden Kerns, I

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believe, and he wears glasses.
A. I don't recall.
Q. Okay. What about Warden Voorhies or Regional Director Voorhies? Do you know him, Ed Voorhies?
A. No.
Q. So if I -- whether he was there or not, you wouldn't know?
A. No, I wouldn't. I don't know him.
Q. Okay. But there was some people there talking, and Rosie was one of them, correct?
A. Rosie was one of them. I cannot tell whether he was there or Mr. Collins was there.
Q. So Kerns and Collins might have been there, correct?
A. And they told me there was a lawyer there.
Q. Who told you there was a lawyer there?
A. The people who were there.
Q. Okay. So there was a lawyer there, too. What did he look like?
A. I don't know.
Q. Okay.
A. I don't remember.
Q. Were there any females there other than Rosie and you?

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A. The people who were talking?
Q. Yes.
A. No.
Q. Okay. Did anybody say anything to the effect of -- did anyone ask you your opinion as to whether they should keep trying?
A. No. Nobody asked me.
Q. Nobody asked you anything?
A. Nobody asked me anything.
Q. Did anybody -- did you offer your opinion?
A. No.
Q. Did you say anything to this group of people?
A. No.
Q. Did you hear any of these people say anything about "We should stop this" or "We should continue it" or anything like that?
A. I think I heard that the governor is to be consulted. I really don't know.
Q. Okay. You think you might have heard something about maybe the governor being consulted; is that right?
A. I think I heard that. I'm not really sure.
Q. This is in the hallway right outside the

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holding cell; is that correct?
A. That's correct.
Q. Could you still see Mr. Broom in there?
A. No more.
Q. What was he doing?
A. Who was doing?
Q. What was Broom doing at that time?
A. I don't know. I cannot see him no more.
Q. You were right outside his cell though, correct?
A. By the hallway away from the holding cell.
Q. How far from the holding cell? I mean, if we look at that door there, B-222 -- see that door right there?
A. Yes.
Q. Let's pretend that's the door to the holding cell. How far away were you from the holding cell?
A. If that's the holding cell, we were there.
Q. So like by where that bottle of water is right there?
A. Yes.
Q. So you would estimate that to be? About eight to ten feet away from the holding cell?
A. Maybe, because I don't see him any more.

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Q. All right. So I guess since you don't see him, you don't know what's going on in that room?
A. I don't know.
Q. Okay. Fair enough. Is that where all these people were talking, about eight to ten feet away from the holding cell? Is that where they were sort of congregating?
A. Yeah.
Q. All right. Fair enough. In your experience as a clinical practitioner and as physician, have you ever had to try more than two or three times to start an IV?
A. Yes.
Q. What's the most you have ever had to try?
A. Three times.
Q. Okay. And have you been successful?
A. Yes.
Q. Have you ever not been able to establish an IV after three attempts?
A. Yes.
Q. You have? There have been times that you have been unable to succeed after three attempts?
A. That's correct.
Q. Would you try a fourth time in that situation?

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A. I would try a fourth time if the IV is really needed by the patient to have his medications or to have whatever is needed through the IV.
Q. Has that ever been the case, where you have had to try a fourth time because the IV is really needed, that it's really essential for that patient to get his meds? Have there been times when you have had to go as high as four times?
A. More than four times?
Q. Even four. Four or more. Has that ever happened in your career where you have had to do that?
A. Maybe four times.
Q. So that's only happened less than a handful of times in your 25-year medical career?
A. Yes.
Q. Is it even thinkable to you to go 18 times?
A. No.
Q. You gasped. Is that right? Didn't you?
A. I'm not going to go 18 times.
Q. You gasped when I asked that question, correct?
A. Yes.
Q. Why?

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A. I'm not going to try 18 times.
Q. Is that unthinkable to you?
A. For me, because I work in the hospital, if there is such a thing, I'm going to tell them that the IVs cannot be put in and he needs another route.
Q. Okay. In your judgment as a medical professional, is the reason you would not go more than four is because that process, three or four times, can become very painful for the individual?
A. If you stick a needle --
Q. Can you answer my question? Is one of the reasons, doctor, that, in your profession, in your judgment as a medical professional, that you will not go more than three or four times -- is one of the reasons because it can become very painful for the individual?
A. Painful for the individual, yes.
Q. And any other reasons?
A. The patient refuse.
Q. Okay. And the patient would refuse, likely in that situation, in part because of the pain, correct? That would be something you might expect to happen?
A. Yes.
Q. And that's why -- I mean, let's just say

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hypothetically that you have got a situation here that the evidence is that you have got 18 or 19 attempts made on Mr. Broom over a one-and-a-half to two-hour period on that day. As a physician, is that something that is going to be extremely painful for that patient, for that inmate?
A. It is painful.
Q. Is that the kind of pain you would consider to be something you would not subject on another human being?
A. Yes.
Q. You would not subject that on another human being, correct? You're agreeing with me, correct?
A. That I am not going to stick 18 times?
Q. Right.
A. Is that what you're trying to ask me?
Q. Yes. That you would not subject that kind of pain --
A. So I answered, yes, that I would not subject that.
Q. I got you. If you had known when you were over there that day -- let me ask it this way.
When you were over there that day on September the 15th of 2009 outside of Mr. Broom's

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cell, if you had known that he had, to that point, been the recipient of 18 or more attempted IV needle sticks over the course of an hour and a half or so, would you have participated?
A. Say that again, please.
Q. If you had known that day, on September 15th, 2009 when you were there, that at the time you arrived, Mr. Broom, the human being sitting on that bed, had, at that point, already been subjected to 18 or more needle sticks by the medical people there in an effort to try to get an IV started and they had all failed, would you have participated?
A. No.
Q. Why not?
A. Because it's 18 times already. If they were not able to get 18 times, I don't think I will be able to.
Q. Now, after that day, after the 15th or even that day, did you speak with any of the prison people at all about what you saw or what you observed?
A. No.
Q. Okay. Since that day, have you spoken to any of the people at the prison about what you saw

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or what you observed --
A. No.
Q. -- other than, perhaps, Mr. Wille? I know you had that conversation with him. But nobody else? You have not been asked by anybody what you saw or what you did or what you observed; is that correct?
A. No, just Rosie.
Q. Have you spoken with Rosie about what happened that day?
A. No, not what happened that day. Why I am going to talk to you guys. That's the only thing.
Q. Okay. Did you speak with Mr. Broom after that day?
A. When he was up in the mini infirmary?
Q. Did you speak with him?
A. Not really, because he refused.
Q. Really? Tell me about that.
A. We were going to assess him twice a day, and each time -- the first time he refused, because according to them, he hasn't spoken with his lawyer yet. Then the second time, in the afternoon, he was cooperating because he was already able to talk with his lawyer.
Q. Okay.

A. He showed me his arms.
Q. All right. So you had a chance to see his arms the very next day; is that correct? Was it the very next day? This would have been the 16th of September; is that right?
A. I don't know if it's the very next day. I think it's not the very next day.
Q. Okay. So maybe the Thursday then, you think, maybe?
A. Maybe Thursday.
Q. In any event, a day or two after the event?
A. Yes.
Q. So you actually had a chance to assess him; is that correct?
A. Assess him but not to talk to him.
Q. Did you try to talk to him?
A. Yeah, but he would not say anything. He just showed the arms.
Q. Did he say, "I recognize you"?
A. No.
Q. Okay. Did you think he did recognize you, or did that cross your mind?
A. I don't think he even recognized me.
Q. Okay. He described in his affidavit

having seen a woman in her 60s -- having seen an Asian woman in her 60s stick him with a needle in the foot. You would agree you fit that description, correct?
A. Yes.
Q. Okay. So tell me if you would, doctor, at the times you did see him and were able to make an assessment, did you actually get to look at his arms?
A. Yes.
Q. Do you have any recollection today about what you saw?
A. I saw a bruised left arm.
Q. You're pointing to your right arm, but you --
A. No, the left arm.
Q. There was a big bruise on the biceps area, correct?
A. Yes.
Q. Do you know what that's from, what that came from?
A. I don't know.
Q. Was that from the IVs? Would that be one explanation, from the IV efforts?
A. I cannot say because I did not see them

sticking him in this --
Q. In the biceps?
A. Yes.
Q. Did he say anything to you that led you to believe that that bruise was caused -- that big bruise was caused from being stuck in that arm?
A. No.
Q. What else did you see?
A. Nothing.
Q. Did you see any other signs of IV insertions?
A. No.
Q. Okay. Did you assess his veins at all to see whether there is -- whether IVs could be started in those veins, during these examinations you made after the events on September 15th? Do you understand that question?
A. Yeah.
Q. Are you still trying to remember, or did you forget the question?
A. I'm still trying to remember.
Q. Okay.
A. I did not see any other veins.
Q. I'm sorry?
A. I did not see any other veins.

Q. Part of your purpose in seeing him and assessing him, was part of it to check for vein access, in other words, to see if his veins could be accessed? Was that part of the reason you were examining him?
A. No. The reason I was examining him was to see how his condition was.
Q. Okay. I got you. So you weren't asked to go up there to examine him to assess the ability of the prison to be able to get in to his veins again, were they to try this again?
A. No, that was not the thing.
Q. Okay. So your thing was to go and see how his condition was?
A. That's right.
Q. And I imagine you would have made notes of what you did, correct?
A. That's correct.
Q. And those notes would have reflected your judgment as to what you saw at the time you were there in the room, correct?
A. Correct.
Q. Why don't we turn --
MR. SWEENEY: Chuck, could you show the doctor, please, Page 536 of Deposition Exhibit 76?

MR. WILLE: Okay.
Q. (By Mr. Sweeney) Do you see this document, ma'am?
A. Yes.
Q. What is this, first of all? What is this document, this form of document? Maybe not the specific one, but what is this used for, this type of document?
A. This is to see what the nurse -- this is the nurse who wrote this.
Q. Okay.
A. This is the result of our checking him up.
Q. Okay. This appears to indicate that it's a Medical Exam Report, correct?
A. Medical Exam Report?
Q. Yes.
A. Nursing report.
Q. Okay. I'm just reading off the top, Medical Exam Report.
A. Yes, by the nurse.
Q. But these are made to be put in the inmate's file, true?
A. I don't know.
Q. Okay. This is written by what appears to be a Nurse Carolyn something, correct?

A. That's correct.
Q. All right. Did you recall actually going to see Mr. Broom with this Nurse Carolyn on September 17, 2009, which would be two days after the events?
A. Yes.
Q. All right. And it appears to indicate here that the nurse anyway observed bruising to the left antecubital area with discomfort and pain. Do you see that?
A. Uh-huh.
Q. Was that consistent with what you recall seeing?
A. He had bruise, yes.
Q. What about the pain? Was he in pain, to your observation, at that time?
A. He wasn't in pain during that time.
Q. During the time you saw him on the 17th? Is that what you mean?
A. That's correct.
Q. How do you know? Is that what he told you?
A. He wasn't complaining.
Q. Okay. He wasn't complaining, but whether he was in pain or not, I guess you don't know,

correct?
A. I don't know.
Q. All right. It also says, "Has numerous IV start sites." Do you see that?
A. That's correct.
Q. Was that consistent with what you recall seeing on that day?
A. On this day?
Q. Yeah, September 17th.
A. I saw the bruise. Yeah, I saw the bruised area.
Q. Okay. That's all you can recall though?
A. That's correct.
Q. You don't recall any of the IV start points?
A. No, I don't -- no.
Q. You're not saying that they weren't there, you're just saying you don't remember --
A. I don't remember.
Q. -- whether you saw them or not?
A. That's correct.
Q. Fair enough. And these are not your notes, I guess, is what you're telling me?
A. These are not my notes.
Q. All right. Let's take a look, if we

could --
MR. SWEENEY: Chuck, would you please show the witness beginning, say, on Bates Page RB-527 of Exhibit 76.
MR. WILLE: Okay.
Q. There appears to be here, doctor, five pages of what are called Interdisciplinary Progress Reports. Do you see that, Ages 527 through 531?
A. Uh-huh.
Q. Let me just ask you this. Are any of these notes your notes? If they are, just tell us which pages and which dates.
A. 527.
Q. So Page 527. Are any of those yours?
A. Yeah, 9-18-09 at 8:30 a.m.
Q. What did you write there?
A. "Refused to be seen. Covered himself with blanket. Refused to talk."
Q. Is that your signature there?
A. That's my signature.
Q. I got you. So that's 8:30 a.m.
A. 8:30 a.m.
Q. That would have been the Friday, correct?
A. I don't know if it was a Friday.
Q. Tuesday was the 15th, so --

A. Maybe it is a Friday.
Q. Okay. It says September 18th at 8:30 a.m. Then you went back at 2:45 --
A. 2:45 p.m.
Q. -- that same day, correct?
A. Yeah. Again, he refused to be seen. He said, "I'm not going to talk to any doctor."
Q. And that's your signature; is that correct?
A. Uh-huh.
Q. Then there's a 9-19 date. Do you see that?
A. Uh-huh.
Q. Do you know whose notes those are?
A. This is an assessment by the nurse, but I don't know who that was.
Q. Okay. What about on Page 528, are any of those notes yours?
A. 9-17-09 at 4:00 p.m.
Q. So that would be -- of course, if the 15th was a Tuesday, this would have been Thursday, correct, at 4:00 in the afternoon? Is that right?
A. Yeah, at 4:00 p.m.
Q. Why don't you read to us what you wrote that day.

A. "At this time, patient had been more cooperative. Apparently he had talked to his lawyer earlier. Was complaining of pain to the left forearm, medial aspect, where site of IV attempt was made. The medial aspect of the left forearm bruised. Still did not show any good veins. Patient had been taking his meds and drinking." I gave him ibuprofen.
Q. Keep reading. Is that 800 milligrams?
A. 800 milligrams TID PRN for pain.
Q. Okay. And that's your --
A. That's my signature.
Q. Okay. What is the left forearm, medical aspect?
A. Okay. The left -- it's here.
Q. So you're pointing to, what, the area -- basically the left biceps area?
A. Yes.
Q. Okay. Is that what you're referring to when you say the left forearm medial aspect, sort of the biceps area, inside biceps of the left arm?
A. Medial, yes.
Q. What does medial mean, inside?
A. Yeah, inside. This is medial and this is lateral.

Q. I got you. Why don't they just call it inside and outside? That would be a lot easier.
A. Medical terms.
(Discussion held off the record.)
Q. (By Mr. Sweeney) Okay. In your note, it says, "Patient had been taking his meds and drinking." What meds was he taking; do you know?
A. I don't know.
Q. Okay. What is the note about "still did not show any good veins"? What did that mean? Why did you write that? Let me start with that. Why did you write that?
A. Because I did not see any veins from the arms that he showed to me.
Q. Were you looking for veins?
A. No, but I did not see anything.
Q. Why were you making that note? I mean, why was that even relevant as a doctor? You don't go around assessing patient's veins, do you? Right?
A. Because I was called before to assess his veins.
Q. Okay. So somebody asked you to assess his veins; is that right?
A. During this visit?
Q. Yes.

A. No.
Q. So why were you doing it?
A. Because, as I have said, I was called earlier during the week to see if I have any -- if he had any veins.
Q. Earlier in the week but after the execution attempt? I'm confused now. You were called earlier in the week to see if he had any veins?
A. During the execution attempt.
Q. Okay. So what you have already testified about, going to the cell and looking at the foot and maybe at the arms, correct?
A. That's correct.
Q. So that's what you're referring to?
A. That's correct.
Q. All right. So you knew you had been asked to do that during the execution attempt, correct?
A. Correct.
Q. Asked by Rosie to do that, correct?
A. Correct, to find any -- if I can see any veins.
Q. So did you think that you still were required to be doing that with him?
A. No.

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Q. Then why were you doing it?
A. Why was I going to assess the patient?
Q. Why were you, on the 17th, still looking at him to see if you could see any veins?
A. Because, as I have said, I was called during the execution attempt to see if he had any veins.
Q. Okay.
A. And when I assess him during this date, I still did not see any veins.
Q. Okay. Did you see any veins on the date of the execution attempt, on the 15th when you were there at the cell? Did you see any veins that day?
A. On the foot.
Q. Okay. And you made an attempt on the foot?
A. I made an attempt.
Q. Did you see any veins anywhere else?
A. No.
Q. What does that mean if you can't see a vein? Why would that be the case with somebody? People all have veins, right? We all have them, right?
A. Right.
Q. Why would you be unable to see them. What

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would be some of the reasons for that?
A. Sometimes people's veins are so deep that we cannot see them. Sometimes people have big muscles that the veins are so deep that you cannot see them.
Q. Okay.
A. Sometimes people are dehydrated and the veins are collapsed.
Q. Okay.
A. Sometimes they have been on chemotherapy and the veins have all been used up. Sometimes they have been IV drug users.
Q. Okay. What's the significance of that?
A. If they were IV drug users, they have used all their veins.
Q. Let me ask this question. Say, for example, hypothetically, that Allen here is an IV drug user. Let's say hypothetically.
MR. BOHNERT: Hypothetically, certainly.
Q. Say he uses the left arm and he always inserts it into the left arm. Is that going to have any impact on the veins in his right arm?
A. No.
Q. So the IV drug usage issue, if you are constantly inserting needles into the veins in a

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part of your body, you're going to wear those veins out in some way; is that correct?
A. That's correct.
Q. But that's going to have no impact on veins in the other part of the body that you may not use at all for your IV drugs; is that right?
A. That's correct.
Q. I got you. Okay. Tell me about this -- if people are muscular. Is that a reason -- I think that's a reason where you said you might not be able to see the veins; is that correct?
A. That's correct.
Q. So somebody like Mr. Broom, who does pushups and heavy physical exercising three or four times a week to build up his body and to stay in shape, is that the kind of thing that might make his veins more difficult to see?
A. Yes.
Q. Okay. Now, the fact that a vein is difficult to see does not mean that you, as a skilled physician, would not be able to access that vein for an IV; is that correct?
A. Say that again, please.
Q. The fact that a vein may be difficult to see because, you know, the person might be muscular

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or the vein might be hard to see, even though we know it's there, that does not mean, that fact alone, that a skilled physician like yourself would be unable to get an IV started in that vein?
A. That's correct.
Q. Okay. What techniques would you use to get an IV started in a vein where the vein is difficult to see?
A. I will try, and sometimes try on the other arm. If it's at least four times, I will give up.
Q. Okay. You said you will try, correct?
A. I will try.
Q. My question though is more specific. What techniques would you use? We know it's hard to see, but what techniques would you use to get it in there? Would it be the slapping or --
A. Use a tourniquet --
Q. Use a tourniquet.
A. -- and have them make a fist.
Q. Okay.
A. I'd have them do like this, flex. Sometimes the veins will pop out.
Q. Okay. Did you ask Mr. Broom to do any of that stuff --
A. No.

Q. -- when you were making this assessment on the 15th of September?
A. No.
Q. Okay. So the fact that you noted that he still did not show any good veins, that doesn't mean that had you wanted to try, you might have been able to get him to pop out a vein or you would be able to see a vein or you would be able to get access with an IV to a vein, correct?
A. That's correct.
Q. And I would imagine -- maybe this is obvious to you as a doctor. But to people like us who are lay people, I would imagine that there are literally millions and millions and millions and millions of people in the population who present at clinics and doctor's offices all over the world who have veins that are difficult to see, correct?
A. That's correct.
MR. SWEENEY: Those are all the questions that I have. Thank you.
(Recess taken.)
EXAMINATION
By Mr. Bohnert:
Q. Good evening, I guess it is by now. My name is Allen Bohnert. I'm with the Federal Public

Defender's office and I also represent a couple -- I guess one of the plaintiffs in this case. I just have, I promise, just a few questions for you. It's been a long day for all of us and I know we're ready to head on out for the evening.
A. Okay.
Q. In your experience as a physician, if someone were to use the restroom four times in one day, and three times in approximately four hours, would that be a person who is dehydrated?
A. Use the restroom for how much -- how many times.
Q. Three times in four hours.
A. He wouldn't be dehydrated.
Q. So he wouldn't be dehydrated if that was what was happening?
A. No, he won't be dehydrated.
Q. So, I guess another way to say it is that if someone is dehydrated, that person would not be going to the bathroom three times in four hours; is that right?
A. That's correct.
Q. Okay. When you went in to the room -- you know, they bring you over to -- when Nurse Tom came to escort you over, did he come from the death house

to where you were to bring you over? At one point in your testimony, you said, "He came back over to get me," when we were talking about you going to the death house.
A. Yes. Tom was working with me at the time that he received the phone call from Rosie.
Q. Okay.
A. So Tom was with me during that time. Tom escorted me to that place --
Q. Okay.
A. -- and he left after the door was opened and I was let in.
Q. Okay. That clarifies it. I must have misunderstood.
But you say Tom is the one who answered the phone initially when Rosie called to ask you?
A. That's correct.
Q. Did he have any conversation with Rosie while you were there, or was it -- what happened when he answered the phone?
A. I don't know what conversation they had. He just said what Rosie asked him to do, to escort me -- I suppose that was what their conversation was, to escort me to that death house.
Q. Okay. So was it your -- as I'm hearing

it, was it your impression that she asked him first, hey, can you escort Doctor Bautista over to the death house, and then you got on the phone and she asked you to come over? Would that be accurate?
A. Say that again, please.
Q. I guess I'm just trying to work out the timeline here in my head. The phone rings in the mini infirmary and you and Nurse Tom are there together working?
A. Okay.
Q. Right?
A. That's correct.
Q. Who answers the phone?
A. Tom.
Q. Okay. And Tom proceeded to have a conversation of some length with somebody on the other end that you later learned was Rosie?
A. Uh-huh.
Q. Correct?
A. That's correct.
Q. And during that conversation with Tom and Rosie on the phone, is it your understanding that during that conversation, Rosie asked Tom to escort you to the death house?
A. That's correct.

Q. Okay. And then at that point, he said that the phone is for you, that Rosie wants to talk to you, or something like that?
A. That's correct.
Q. And then at that point, you get on the phone?
A. Yes.
Q. And is that the point then where Rosie asked you or told you to come over to the death house?
A. That's correct.
Q. Okay. And at that point is when she said we need you to come over and find a vein for us?
A. It wasn't actually the words, we need you. She said that if I can find a vein.
Q. Okay. So did she say, "Do you think you can find a vein?" or was it, "Can you come over and see if you can find a vein?"
A. If you can come over and find a vein.
Q. Okay. So she asked you to come over and find a vein for -- to try to find a vein for us?
A. Try to find the vein.
Q. Okay. When you crossed -- when you got to the holding cell itself where Broom was, you were there and you were going to do the assessment to try

to find a vein, correct?
A. That's correct.
Q. When you looked at his foot and then you stuck him with a needle, did you do that on the lateral or the medial malleolus?
A. It's in the ventral aspect of the foot. In the anterior part of the foot, not on the --
Q. So it wasn't next to the malleolus on either the inside or the outside then?
A. No. I was -- it was the top of the foot.
Q. Okay. So if we were -- I guess to use me as an example, if we're looking at my foot, you're saying the needle went in here (indicating)? I'll come over to you and you can use my pen as your needle.
A. Okay.
Q. If you were looking at my foot --
A. This is the medial malleolus.
Q. Right.
A. I did not stick him there. This is the lateral malleolus.
Q. Right.
A. I did not stick him there.
Q. Okay.
A. This is where I tried once.

Q. Okay. So on the top surface of the foot?
A. The top of the foot.
Q. Okay. Not there at the joint where the foot meets the leg?
A. No.
Q. Okay. And not on the lower shin?
A. No.
Q. It's on the surface, the flat surface, on the top of the foot?
A. On the top of the foot.
Q. And you don't remember which foot it was that you tried?
A. It's the left foot.
Q. You know it was the left foot?
A. It's the left foot.
Q. Okay. Why did you choose the left foot, if I might ask?
A. It was the foot that I saw.
Q. Okay.
A. It was the foot that was near to me.
Q. Was anybody working on the right foot?
A. I don't remember.
Q. But it's possible that someone else was already working on the right foot?
A. I don't remember.

Q. Okay. When you were there looking at his foot and assessing maybe looking at the arms, at any point did you ever look at Broom's face?
A. No. I don't remember if I looked at his face or not. I don't remember. No, I don't remember.
Q. Okay. You don't remember if you did or not?
A. I don't remember if I looked at him or not.
Q. Okay. In your normal course of practice as a physician, if you were assessing something on a patient, is the facial region an area that you would want to look at as part of your assessment?
A. Trying to put a needle?
Q. Sure.
A. No. Because if they were in pain, they will just resist, telling you that they are hurting.
Q. Okay.
A. Or they will vocalize.
Q. Okay. So you would or would not want to look at their face then before you do that?
A. In my actual practice?
Q. In your normal course of work as a physician.

A. Well, I will look at them.
Q. Okay. So ordinarily you would look at the person's face --
A. Ordinarily, yes.
Q. -- to see what their demeanor is, what they look like, right?
A. That's correct.
Q. But you don't remember if you did that for Mr. Broom at all?
A. I don't remember.
Q. Okay. Did you know that we do executions by lethal injection in Ohio?
A. No, I don't know.
Q. You don't know or you didn't know before? I mean, as of right now, as you sit here today, do you --
A. As of right now, I know, yes.
Q. Okay.
A. But before, I did not know.
Q. Before Rosie called you on the phone, you did not know --
A. I did not know.
Q. -- we did execution by lethal injection?
A. I did not know.
Q. Okay. So did anybody explain to you at

any time, on your way over and in your working on Mr. Broom, the significance of needing IV access in the process of an execution in Ohio?
A. Nobody explained to me, but I guess that they were trying the IV because this person is to be executed.
Q. Okay. With the idea being that they need the IV to insert the lethal chemicals, you mean?
A. Yes.
Q. Okay. So you knew when they were talking about needing vein access, needing an IV set, that that was what was preventing them at that point from being able to move forward with the execution process? Is that fair to say?
A. Say that again.
Q. Well, if you knew that they needed you to look at a vein, to try to find a vein -- they couldn't find a vein, right? You knew that they couldn't find a vein at that point, right?
A. That's correct.
Q. So would it be fair to say that it would be a reasonable conclusion that if they can't find a vein, that's what they need to be able to execute the person?
A. That's what they need.

Q. To be available to do the execution, right?
A. That's correct.
Q. Okay. So you could say that when Rosie called you, she was saying that we need you to come find a vein to be able to do this execution, correct?
A. As I remember, she told me that there is some execution and they cannot find a vein.
Q. Okay. And what was the significance of that to you?
A. They asked -- she asked me if I can find a vein.
Q. Right. But what did that mean to you? Did you think, oh, they need to give him some pain killers or, oh, they need to find a vein to be able to do something? I mean, what goes through your mind when you --
A. I did not think anything about that. What I was just thinking is just to find a vein.
Q. Okay. But at that point, you knew that we do executions by lethal injection, correct?
A. During that time.
Q. During that conversation, you were aware of that, correct?

A. The conversation, yes.
Q. Okay. Now, Rosie is qualified and trained to set an IV, right?
A. I don't know.
Q. Do you know what her degree is or her training.
A. She's an RN.
Q. Okay. Would RNs be qualified and trained to set an IV?
A. Yes, they are qualified.
Q. Okay. So by virtue of that, Rosie would be qualified and trained to set an IV, right?
A. By virtue of that, yes.
Q. Okay. Have you ever, in your year or year and a half at SOCF, ever known or seen her insert a needle in to an inmate's veins?
A. Rosie?
Q. Uh-huh.
A. No, I haven't seen her.
Q. Do you know if she has?
A. I don't know.
Q. Okay. So do you know why Rosie didn't just do the IV on Broom herself instead of calling and asking you to do it?
A. I don't know.

Q. Have you thought about why she didn't do that?
A. I don't know.
Q. Are you curious at all?
A. I'm not curious at all. I don't know.
Q. So you never asked yourself, "I wonder why she's putting me in this position rather than just doing it herself"?
A. I don't know.
Q. Okay. But you haven't asked her why, as your boss, she put you in that situation, have you?
A. No, I haven't asked her.
Q. Doctor Bautista, are you -- what is your understanding of the -- let's start first with what the Hippocratic oath prohibits you from doing. What's your understanding of that?
A. We are supposed to heal people when they are sick. We have supposed to help them as much as we can. As far as our ability, we are supposed to help them.
Q. Okay. So would your understanding of the Hippocratic oath also be that it would preclude you or prevent you, prohibit you, from participating in an execution of an individual?
A. Say that again, please.

Q. Would your understanding of the Hippocratic oath prohibit you or prevent you from participating in the execution of an individual?
A. Yes.
Q. Okay. And you knew that Mr. Broom was going to be executed, correct?
A. Yes.
Q. And you knew that was the reason you were being brought in, correct?
A. Yes, to find an IV.
Q. To facilitate the execution, correct?
A. I don't know if that's the reason, to facilitate the execution, but to find an IV.
Q. Okay. And you knew that it was necessary to have an IV to be able to execute Mr. Broom, correct?
A. Correct.
Q. And as you walked in, you could see that there was no IV currently established at the point that you arrived at the holding cell, correct?
A. Correct.
Q. Okay. So you knew at that point then that you needed to establish the IV to be able to facilitate the execution? Would that be an accurate conclusion?

A. My understanding is just to find an IV. I don't know whether that was to facilitate the execution, but just to find an IV.
Q. But you knew at that point there was no other IV that had been established, correct?
A. There was no IV.
Q. On this inmate who was in the middle of the execution process, correct?
A. That's correct.
Q. Okay. At that point, when you got there and you saw that there was no IV yet, did you feel that you could decline to help find an IV that was necessary to help execute him?
A. Did I feel that --
Q. Do you understand my question?
A. No.
Q. As you're standing there, you survey the situation. As Tim said, you're a physician and you're skilled at being able to quickly assess, right?
A. That's correct.
Q. So you get there, you're standing at the door and you take in this whole scene; inmate on the bed and medical team members unsuccessfully trying to establish an IV. And you know you've been

brought over because they can't get an IV, correct?
A. That's correct.
Q. So at that point, did you feel that you could turn around and leave, because if you stayed and set the IV, that was what was necessary to execute Mr. Broom?
A. I don't know how I felt at that time. I don't know.
Q. Do you remember feeling any kind of emotions or thoughts as you were standing there?
A. I was scared.
Q. Okay. Why were you scared?
A. Because that was the first time I have been in that place, and to see somebody who is to be executed.
Q. Is that a pretty powerful thing? You will have to -- luckily, I have never actually witnessed it myself, so I don't have any personal experience with it. Was that a powerful moment for you in terms of emotions and thoughts and that kind of thing?
A. Yes.
Q. Okay. If you were to get a phone call next Thursday -- are you aware there's another execution scheduled?

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A. For when?
Q. Next Thursday.
A. If they are going to call me?
Q. Well, I know you're not suppose to work next week. But hypothetically, if you were working next Thursday and you're in the same kind of situation where you're working in the mini infirmary and you know there's an execution in process and that phone rings and you pick it up and it's Rosie Clagg saying, "Doctor Bautista, we need your help. Can you find a vein?" --
A. I will decline.
Q. -- what would you do?
A. I will decline.
Q. Why?
A. Because I don't want to be scared again.
Q. Okay. What is your personal understanding of the American Medical Association's position on physician participation in executions?
A. I have no idea.
Q. Have you heard anything about it?
A. No.
Q. Have you thought to -- have you wondered about it since September 15th?
A. No. I really try not to remember any of

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these things.
Q. Okay. That's understandable.
Do you know if there's any kind of Ohio licensing organization for physicians that has -- is there an Ohio -- like we have the Ohio Bar Association for lawyers. Is there anything like that for -- like is there an Ohio Medical Association or some kind of Ohio licensing agency?
A. Yes.
Q. What would that be?
A. The Ohio Board of Medicine.
Q. Okay. Do you know what the Ohio Board of Medicine's position is on physician participation in executions?
A. I don't know.
Q. Okay. Has it occurred to you to find out?
A. No, because as I have said, I don't want to think anything about this.
Q. Okay. But at that point, you didn't feel like you could turn around and walk out? Would that be accurate?
A. On this case?
Q. On the 15th, when you were standing there in the doorway and you're overwhelmed -- I don't want to put words in your mouth. It's a powerful,

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emotional scene as you're standing there. I can only imagine what it was like. At that point in time, did you feel that you could turn around, say "I'm not having any part of this" and walk out?
A. I felt that way.
Q. You did feel that way?
A. I felt that way. As I told you, I was scared.
Q. So you felt that you wanted to or you felt that it was your choice, that you could or you could not, it was up to you?
A. I felt that I could walk away.
Q. Okay.
MR. BOHNERT: For right now, I don't have any further questions. I think Tim does.

RE-EXAMINATION

By Mr. Sweeney:
Q. This was a traumatic experience for you then, I take it? Is that true?
A. It's true.
Q. And that five minutes at that cell has left a -- has left an impact on you; is that right?
A. That's correct. I'm trying to block it out.
Q. It was frightening; is that right?

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A. If you are scared, you are frightened.
Q. It was -- were you -- I'm not trying to belabor this. You were there for five minutes --
A. Maybe not even five minutes.
Q. -- and this has left a mark on you that I imagine you will carry with you for the rest of your life; is that right?
A. Maybe. But as I have said, I'm trying to block it out.
Q. And I take it you regret that you walked into the room that day and attempted to start that IV in Mr. Broom; is that true?
A. I have no answer for that.
Q. Have you -- and why is that? Why not?
A. I don't want to think anything about it any more.
Q. Have you thought about it though at all, from the perspective of Mr. Broom and what he must have gone through that day, knowing that he had been there for an hour and a half waiting to die?
A. I don't know. I did not think anything about that.
Q. Could you, just for a moment, as a doctor, think about what that must have been like for him? Is that something you, as a human being, could see

putting him through again, a second time?
A. Say that again, please.
Q. Is that something that you, as a human being, could tolerate putting him through again?
A. No.
MR. SWEENEY: That's it. No further questions for me.
MR. BOHNERT: Nothing further.
Anything, Kelly?
MS. SCHNEIDER: No.
MR. BOHNERT: We're done.
MR. WILLE: No questions.
- - -
Thereupon, at 7:13 p.m., Thursday, October 1, 2009, the deposition was completed.
- - -

CERTIFICATE

STATE OF OHIO :
: SS:
COUNTY OF SCIOTO :

I, Diana L. Hodge, a notary public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named Carmelita Bautista, M.D., was by me first duly sworn to testify to tell the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the deposition then given by her was by me reduced to stenotype in the presence of said witness, afterward transcribed by computer; that the foregoing is a true and correct transcript of the deposition so given by her; that the deposition was taken at the time and place in the caption specified and was completed without adjournment; and that I am in no way related to or employed by an attorney or party hereto, or financially interested in the outcome of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office in Wheelersburg, Ohio on this 7th day of October, 2009.

My commission expires
June 20, 2012
____
DIANA L. HODGE, NOTARY PUBLIC
IN AND FOR THE STATE OF OHIO

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: SS:
COUNTY OF SCIOTO :

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IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office in Wheelersburg, Ohio on this 7th day of October, 2009.

My commission expires
June 20, 2012

Diana L Hodge
DIANA L. HODGE, NOTARY PUBLIC
IN AND FOR THE STATE OF OHIO

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